

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA No. 20251 of 2023

**Madhumita Laskar
Vs.
The State of West Bengal & Anr.**

**For the petitioner : Mr. Debabrata Saha Roy,
Mr. Timir Baran Saha.**

**For the State : Mr. T. M. Siddiqui,
Mr. Amrita Lal Chatterjee.**

Judgement on : 28.08.2023.

Bibek Chaudhuri, J.

The petitioner applied for fair price shop dealership in respect of village – No. 5 Jalberia under Jalberia – 1 Gram Panchayat within P.S.- Kultali, South 24-Parganas on the basis of a vacancy notification dated 21st November, 2022. As per the notification, it is found from the record of the instant writ petition that the petitioner applied within the stipulated period of time with all papers and documents for grant of licence in her favour.

It is the case of the petitioner that the husband of the petitioner has a godown with adjacent office-cum-shop as required in the vacancy notification and by swearing an affidavit dated 14th

December, 2022 he permitted his wife to run the dealership business from the godown owned by her husband. The Sub-Divisional Controller of Food and Supplies recommended the name of the petitioner for grant of licence. However, the District Controller, Food and Supplies Department, South 24-Parganas for the best reason known to him refused to grant licence in favour of the petitioner. So is the instant writ application.

The learned Advocate for the respondents has filed a report containing brief history of the incident. It is found from the said briefing history of facts that in all five numbers of application submitted for grant of licence in respect of the said FPS Dealership were rejected. So far as the petitioner is concerned, her application was rejected in the absence of any deed of gift or lease deed in her favour in respect of the godown and the office-cum-shop room.

Having heard the learned Counsel for the parties and on perusal of the relevant provisions of WBPDS (Maintenance and Control) Order, 2013 it is found that without a deed of lease executed by the owner where the licensee is not the owner of the godown, a licence cannot be granted in favour of the applicant. Part – 4 of the vacancy notification is absolutely clear where in Clause VII (b), it is stated that for lease/rented property: registered lease deed or tenancy agreement with copies of rent receipts for all the months from the date of agreement till date of application and registered deed/RoR in the name of the land owner (or lessor) are necessary for consideration of grant of licence. Since in the instant application the petitioner failed to produce such document, her application was rejected.

However, it is submitted by the learned Advocate for the State respondents that a fresh notification will be issued for filling up the said vacancy.

Having heard the learned Advocates for the petitioner and the State Respondents and on perusal of the entire record, this Court ascertains that the husband of the petitioner is the owner of the godown and office cum shop where the petitioner was allowed to work. The petitioner failed to produce any lease deed or rent receipt for the said godown and office cum shop. The husband of the petitioner, however, affirmed an affidavit permitting the petitioner to carry on her business from the said godown and office cum shop. When the godown and office cum shop is owned by the husband of the petitioner, the District Controller before rejecting the petitioner's application could have granted her opportunity to file requisite documents in support of her leasehold right over the godown and office cum shop. Outright rejection of petitioner's application appears to be arbitrary and malafide.

In view of the above discussion, the impugned order of the District Controller, South 24 Parganas is set aside and quashed.

The District Collector, Food and Supplies, South 24 Parganas is directed to give one month's time to the petitioner to submit relevant document regarding leasehold/tenancy right over the godown and office cum shop and dispose of the said application in accordance with law.

(Bibek Chaudhuri, J.)