

Form J(2)

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

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

WPA No. 20900 of 2023

**Safikul Alam
Vs.
The State of West Bengal & Ors.**

**For the petitioner : Mr. Anindya Bose,
Mr. M. Nazar Chowdhury,
Mr. Mridul Biswas,
Mr. Marghoob Ahmed Salik.**

**For the State : Mr. Sirsanya Bandhopadhyay,
Mr. Arka Kumar Nag.**

Judgement on : 31.08.2023.

Bibek Chaudhuri, J.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner applied for Fair Price Shop Dealership on the basis of a vacancy notification dated 16th November, 2022 in respect of Village/Hamlet/Para – Raghopur (Kalitolla), Raghopur High School. It is not in dispute that the petitioner's application was rejected and private respondent's application was allowed and dealership was granted. The petitioner lodged a complaint before the respondent authority on the following grounds:-

The godown of the petitioner is situated at Raghopur (Kalitolla) that is at the place for which vacancy notification was published. On

the other hand, the godown of the private respondent is situated at Raghapur (Milltola) which is at a distance of about two kilometers from the central point of location where FPS Dealership was intended to be set up by the Food and Supplies Department. It is also stated by the petitioner that the petitioner filed a complaint alleging the said fact and after filing of the complaint his status in the portal of the Food and Supplies Department was changed stating to be eligible for grant of licence but it was not approved. The petitioner has raised a question in the instant writ petition as to why in spite of petitioner's eligibility, the prayer for dealership was not approved and rejected. Therefore, in the instant writ petition the petitioner has prayed for issuance of writ in the nature of mandamus against the respondent authorities to consider his representation favourably and to grant him licence of Fair Price Shop.

On the other hand, it is submitted on behalf of the State respondents taking me to the vacancy notification that in every vacancy notification the central place of vacancy is notified. In the instant case, the place of FPS Dealership was stated as Raghapur (Kalitolla) but the central place of vacancy was Raghapur High School. Therefore, the FPS Dealership was intended to be set up near Raghapur High School within Raghapur (Kalitolla). It is further submitted by the learned Advocate on behalf of the State respondents that the property on which the godown of the petitioner as well as private respondent are situated, are within Mouza – Raghapur, P.O.- Altapur – I GP under Police Station – Karandighi. Therefore, the properties on which the godowns are set up are lying in the same Mouza.

It is further submitted by the learned Advocate for the respondents that at the time of inspection it was found that the office-cum-shop of the petitioner was measuring about 177 sq. ft. However, as per vacancy notification the minimum requirement of office-cum-shop is 200 sq. ft. The godown of the petitioner is situated at a distance of 1.255 kilometers from Raghapur High School. However, the respondent's godown is situated at a distance of 579 meters from the Raghapur High School. Therefore, the private respondent was found eligible in all aspect and he was selected. There is no abnormality in the selection process and the petitioner does not have any case to agitate before this Court.

Having heard the learned Counsels for the parties and on perusal of the entire materials-on-record and having due regard on the submission made by the learned Advocate for the State, this Court finds that the main eligibility criteria in respect of godown and office space as stated in part 2(iv) of the vacancy notification was lacking in respect of the petitioner because of the fact that he had an office-cum-shop room measuring about 177 sq. ft. but the requirement was 200 sq. ft. The respondent, on the other hand, had requisite space, his godown is situated nearer to Raghapur High School within the same Mouza and accordingly the respondent was selected.

On due consideration of the submission made by the State respondents I do not find any semblance of arbitrariness or *mala fide* in the selection process of the petitioner. Accordingly, the petitioner does not have any case to invoke writ jurisdiction of this Court. The instant writ petition is, thus, dismissed.

However, there shall be no order as to costs.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 07.