

17.10.2023  
Court No. 13  
Item No. 7  
AP

**MAT 1773 of 2023**  
**With**  
**IA NO: CAN 1 of 2023**

**Sk. Afsar Ali**  
**Vs.**  
**Sk. Ataul and Ors.**

Mr. Siddhartha Goswami  
Mr. Vaskar Saha  
Mr. Bhaskar Bhattacharyya

... For the Appellant.

Mr. Haridas Das  
Mr. Ujjwal Trivedi  
Mr. Sujal Dey

... For the Respondents.

Mr. Suman Sengupta  
Mr. Sanatan Panja

... For the State.

1. Affidavit of service filed in Court today is taken on record.

2. The instant appeal is directed against a judgement and order dated 31<sup>st</sup> August, 2023 passed by the learned Single Bench of this Court in WPA 23889 of 2022.

3. The subject matter of the writ petition filed by the private respondents is that the appellant allegedly applied for grant of FPS licence on 28<sup>th</sup> April, 2022 i.e. four days beyond the last date stipulated in the notice of vacancy notification i.e. 24<sup>th</sup> April, 2022.

4. The Court below directed the Sub-Divisional Controller, Food and Supplies Chanchal to consider the representation of the writ petitioner/private respondent dated 22<sup>nd</sup> September, 2022 and take an independent

decision on the subject matter i.e. as to whether the appellant ought to be disqualified for having been filed application beyond time and as to whether the writ petitioner's application ought to be considered.

5. To this extent the impugned order is sustainable and justified. However, the direction contained in paragraph 8 is erroneous. There was no need for quashing or cancelling the FPS license already given to the appellant, even before the enquiry is conducted by the authorities.

6. In that view of the matter, the impugned order dated 31<sup>st</sup> August, 2023 is modified to the extent that the respondent No.7, Sub-Divisional Controller, Food and Supplies Chanchal shall consider afresh as to whether the appellant's application for FPS dealership was filed within the time stipulated in the notice of vacancy. The enquiry shall be conducted afresh, uninfluenced by any of the observations made by the Single Bench of this Court. the licence granted to the appellant shall abide by the result of the inquiry to be conducted by the respondent no. 7.

7. Learned counsel for the respondents submits that the State has been inconsistent in their stand in the report filed in the Court below. A date different from the date ascertained by the writ petitioner through the RTI Act, 2005 appears to have been indicated.

8. It is expected that the aforesaid exercise is completed within the period of two months from date by the respondent No.7.

9. With the aforesaid observations, the appeal is partly allowed and shall stand disposed of.

10. In view of the above, connected pending applications, if any, shall also stand disposed of.

11. There shall be no order as to costs.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**

**(Supratim Bhattacharya, J.)**