

02.05.2023

Sl. 17

Ct.No. 39

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 26689 of 2022

Andharia Samabay Krishi Unnayan
Samiti Limited
Vs.
State of West Bengal & Ors.

Mr. Lal Ratan Mondal
Mr. Avik Kumar Das

...for the petitioner

Mr. T.M. Siddique
Mr. N. Chatterjee
Mr. S. Adak
Ms. A. Pandey

...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondents especially the respondent no. 5, to cancel or withdraw the impugned order in the Memo No. 1208(2)/DCFS/JGM/2022 dated 11th July, 2022.

Learned advocate appearing on behalf of the petitioner submits as follows: On 23rd September, 2013 a notification was issued for fair price shop/MR dealership at Andharia under the Binpur I Block, Jhargram. The petitioner filed an application on 17th October, 2013. However, the respondent authorities did not take any steps regarding the allotment in respect of the said dealership. Accordingly, the

petitioner was constrained to approach this Court on 4th September, 2018. This court passed an order in WP 15255 (W) of 2018 directing consideration of the petitioner's representation. A communication was made by the District Controller (Food & Supplies) Jhargram dated 8th August, 2019 to the petitioner stating that information had already been sought from the Director, Directorate of DDP&S and necessary approval had been sought. But, the information was not yet received. Thereafter, Covid 19 pandemic situation intervened. Since no further intimation was sent, the petitioner was constrained to move another writ petition being WPA No. 8702 of 2022. By an order dated 20th May, 2022, this Court disposed of the writ petition by directing the District Controller (Food & Supplies), Jhargram to intimate to the writ petitioner the fate of the above writ application. Thereafter by a communication dated 11.07.2022, the District Controller (Food & Supplies), Jhargram intimated the petitioner that the SCF&S, Jhargram had been directed to find out the possibility to set up a fresh vacancy at Andharia area under Binpur I Block and the SCF&S, Jhargram submitted a report which noted that there was no scope of setting up a fresh vacancy

in the light of recent Government order. On the earlier occasion, learned counsel for the State had informed this Court that the petitioner's application was found defective. But, in the two earlier writ proceeding this was never submitted by the State respondents as it appears from the records produced by the petitioner. However, such defect is curable and can be remedied by filing an appropriate affidavit.

Learned counsel for the State submits as follows: As was intimated earlier, the application of the petitioner did suffer from an irregularity which, however, can be cured. Let an affidavit stating this required facts be filed by the petitioner in respect of his application for MR dealership within a stipulated time. Thereafter, his application would be considered by the respondent authorities in respect of the vacancy.

I have heard the learned advocates appearing for the parties and have perused the writ petition and the affidavits.

It appears that the petitioner's application for dealership has remained pending since long. Fortunately, the notification for the vacancy has not been cancelled and withdrawn, in the meantime.

As it appears from the records there is an irregularity in the application made by the

petitioner inasmuch as a fact which was to be stated on affidavit was not so stated. This is curable, which shall be cured within a fortnight from date.

The respondent authorities thereafter shall consider the petitioner's application for dealership within 4 weeks thereafter.

With these observations, this writ application is disposed of.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(Jay Sengupta,J.)