

OD-4

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/2950/2022

SAROJ BISWAKARMA
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE BIBEK CHAUDHURI
Date : 30th June, 2023.

Appearance:
Ms. Pronoti Goswami, Adv.
Mr. Sarda Sha, Adv.
...for the petitioner

The Court:- The petitioner is duly represented by Ms. Pronoti Goswami, Advocate.

The State of West Bengal and the private respondents, however, are not represented.

It appears from the record that previously the State respondents were represented by Mr. Amitesh Banerjee, learned Senior Counsel with Ms. Ipsita Banerjee, Adv.

The respondent no.9 was also represented by Mr. Avirup Mondal, Advocate. However, today when the matter is taken up for hearing, I do not find any learned Advocate representing the respondents. The dispute relates to the instant writ petition crops up when the petitioner has alleged that his application for granting licence in respect of a Fair Price Shop of Village- Bengai Jote within

Maniram Gram Panchayat, P.S.- Naxalbari, Dist:-Darjeeling has been considered by the respondent authorities till date. It is the case of the petitioner that on 18th January, 2022, the Sub-Divisional Controller, Food and Supplies of the concerned jurisdiction floated a vacancy notice for Fair Price Shop dealership in respect of the above mentioned village but prior to the said vacancy refers to eligibility criteria of the applicant, it is the case of the petitioner that the petitioner has complied with all eligibility criteria as mentioned in the vacancy notification. He uploaded online form with all necessary documents on 8th May, 2022, however, till date his application was not considered.

Moreover, it is the grievance of the petitioner that the respondents are now making a conspiracy to issue licence in respect of the said dealership in favour of private respondent nos. 9, 10 and 11. It is needless to say that when an application for grant of licence is filed by a candidate under West Bengal Public Distribution System (Maintenance and Control) Order, 2013, the applicant is entitled to know the fate of his prayer. It is learnt from the submissions made by the learned Advocate for the petitioner that on the basis of his application, the food inspector and his team visited the godown of the petitioner and examined his documents and found that all the documents are in order. In spite of such fact, there is no reason to assign as to whether the application filed by the petitioner is allowed or rejected.

Clause 22 of the WBPDS (Maintenance and Control) Order 2013 states:-
“22.- Power of the licencing authority to refuse, grant, reissue or renewal of licence. - The licencing authority may after giving licensee an opportunity of

stating his/her case in writing, and after giving him/her an opportunity of being heard and for the reasons to be recorded in writing refused to grant or reissue or renew a licence.”

Therefore, Clause 22 of the maintenance order clearly states that the applicant must be given an opportunity of being heard before granting or refusing his licence. In the instant case, the State respondents have failed to produce any document that an opportunity of hearing was given to the petitioner while dealing with the application for licence submitted by the petitioner.

In view of such circumstances, the State authorities, specifically the respondent no. 6 and respondent no. 7 are directed to deal with the application filed by the petitioner in accordance with the provisions contained in the Maintenance and Control Order of 2013 after given an opportunity of hearing to the petitioner and dispose of the application within 45 days from the communication of this order in accordance with law. The instant writ petition is disposed of with the following order.

Urgent certified photostat copy of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(BIBEK CHAUDHURI, J.)