

18.09.2024
SL No.27.

Court No.24
sg

WPA 7908 of 2024

**Seikh Sirajuddin Ahmed
Vs.
State of West Bengal & Ors.**

Mr. Anindya Lahiri,
Mr. Arkadipta Sengupta,
Mr. Tirthankar Dey,
Ms. A. Mukherjee,
...for the petitioner.

Mr. Sirsanya Bandopadhyay,
Mrs. Tapati Samanta,
....for the State.

Writ petitioner challenged the action of the respondent authority for appointment of private respondent no.6 in connection with a new vacancy vide notification dated 25th November, 2022, by the Sub-divisional Controller, Lalbagh, Food and Supplies Department, Government of West Bengal regarding filling up vacancy of FPS Dealership at Gobindapur, near Gobindapur under Gram Panchayet Sundarpur in the District of Murshidabad.

It is the case of the petitioner, that petitioner as well as the private respondents and other persons applied for the said vacancy. They have submitted the application complying the notification. On the basis of such application enquiry was conducted by concerned authority, after enquiry the private respondent no.6 was awarded the license. It is the

specific case of the petitioner that the godown and shop room as well as the approach road and the location of the godown and shop room of the petitioner is more suitable than the private respondent.

It is the allegation in the writ petition that the State authority has acted arbitrarily and illegally in awarding the license in favour of the private respondent no.6.

Controverting the allegation of the writ petitioner the report in the form of affidavit was placed on record by the State respondent no.(s) 1 to 5, one supplementary affidavit was filed by the petitioner along with some documents.

Learned Counsel for the petitioner submits that the godown cum shop room of the petitioner is far away from the central location. He further submits that Pradhan, Sundarpur Gram Panchayet, on the basis of application under Right to Information Act has submitted a reply, wherefrom it would reveal that breadth of approach road to the godown of the private respondent is only 6 feet. He further submits that authority concerned has submitted a report after enquiry wherein they have mentioned that breadth of approach of the godown of the private respondent is 10 feet. He also contradicted on fact that private respondents have no shop rooms. He submitted that enquiry report

of the concerned authority regarding the area of godown and shop room is erroneous. It has been further argued on behalf of the Bar that necessary order may be passed to re-inspect of the matter through a Special Officer.

Learned Counsel appearing on behalf of the State authority submits that report of the State authority has disclosed the comparative statements regarding the suitability of petitioner as well as respondent no.6 for the purpose of the said license. He further submits that by virtue of power conferred upon the SCFS concerned, enquiry was conducted and a report was submitted. Learned Counsel for the respondent authority has placed the report both petitioner as well as the private respondent. He has also placed the tabular sheets, according to the notification dated 17th August, 2021. He submits that private respondent was awarded 97 marks out of 100 and petitioner was awarded 80 marks.

Learned Counsel for the respondent further submits that State authority has acted according to the power of the authority given by WBPDS(M&C) order, 2023 and there is no biasness on behalf of the respondent authority.

Heard the learned Counsel, peruse the pleadings as well as the documents placed before this Court. On perusal of the report of State authority, it appears that SCFS concerned has

directed one Inspector to inspect proposed godown and shop room of the petitioner as well as private respondent. After enquiry he submitted a report to the effect that the godown and shop room of the private respondent no.6 is more spacious than the petitioner. It has been alleged from the Bar that the report is not correct; Moreover, it has further argued that there are no shop room of respondent no.6. The said point was not taken specifically by way of pleadings. Moreover, petitioner has pleaded in the writ petition that the godown and shop room of the private respondent is not so spacious as petitioner. Learned Counsel for petitioner also placed reliance upon the RTI information issued by the Pradhan, Sundarpur Gram Panchayet ; the said RTI answer of the Gram Panchayet cannot be related in the case and vis-à-vis it cannot be contradicted the report of the Enquiry Officer who has conducted enquiry according to the provision of WBPDS (M&C) Order, 2013.

Moreover, it appears that the RTI answer was obtained after filing of the writ petition, so it can be ascertained that the RTI answer is after thought and prepared for the purpose of writ petition.

I find no justification to disbelieve the report of the concerned authority. Moreover, it appears to me that the respondent authority has selected

private respondent in compliance to the memo dated 17th August, 2021 by providing specific marks to each applicants on basis of the separate heads. After perusing the said tabulation sheets and the enquiry report as well as the marks given by the DLFPSSC. It appears that the private respondent no.2 being the candidate who has secured the highest mark has correctly selected as a successful candidate for the said license.

Under the above observation, I find no justification to entertain the said writ petition. Thus, the said writ petition is disposed of as devoid of merits.

Urgent Photostat certified copy, if applied for, be supplied to the parties upon completion of all legal formalities.

(Subhendu Samanta, J.)