

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Biswaroop Chowdhury

M.A.T. 895 of 2024
CAN 1 of 2024
CAN 2 of 2024
CAN 3 of 2024

Sk. Mantaj Ali
-Vs-
The State of West Bengal & Ors.

For the Appellant	:	Mr. Satyendra Agarwal, Adv. Mr. Taraknath Sarkar, Adv. Mr. Goutam Malik, Adv.
For the Private Respondent	:	Mr. Debabrata Saha Roy, Adv. Ms. Debabrata Chakraborty, Adv. Mr. S. Das, Adv.
For the State	:	Mr. T M Siddique, Adv. Mr. Amrita Lal Chatterjee, Adv.
Heard on	:	18.07.2024
Judgment on	:	18.07.2024

Joymalya Bagchi, J.:-

1. In response to e-notice, applicant had applied for allotment of a fair price shop license. Respondent-writ petitioner had also applied

likewise. The site of the applicant as well as the respondent-writ petitioner was inspected and enquiry report was submitted. Thereafter, re-enquiries were undertaken and on the basis of re-enquiry report, enquiry team recommended the respondent-writ petitioner as the most eligible candidate to the District Level Fair Price Shop Selection Committee. However, the district committee took a different view on the following grounds:-

- i. there was a stair case leading to the first floor from one compartment of godown;
 - ii. the sketch map does not match with the physical measurement of the shop-cum-godown; and
 - iii. no lease/tenancy agreement was submitted from the owner.
2. Being aggrieved by the aforesaid decision, respondent- writ petitioner moved this court under Article 226 of the Constitution and the Hon'ble Single Bench after considering the report of the respondent authorities came to a finding that writ petitioner-respondent had complied with the eligibility criteria and was entitled for appointment.
 3. Learned counsel for the applicant submits that he was also an applicant and the respondent- writ petitioner is not eligible for appointment as his shop room is not adjacent to the godown. There is a road running between the two.

4. In rebuttal, learned counsel for the writ petitioner contends the applicant is ineligible for appointment. The enquiry reports unequivocally show the sizes of his shop room and the godown are below the eligibility criteria.
5. If the applicant was a successful candidate he would have been a necessary party to the proceeding, as an order in favour of the writ petitioner would have denied him the license and resulted in legal injury¹. But the documents annexed to the application show the size of the godown and the shop room of the applicant does not satisfy the eligibility criteria.
6. An unsuccessful candidate who does not meet the eligibility criteria need not be added as a necessary party in a *lis* challenging the rejection of another candidate. Moreover, the report filed by the respondent enclosing the order of rejection shows that the writ petitioner's prayer was not rejected on the ground that his shop room and the godown are not adjacent to one another.
7. It is trite an order of rejection has to survive on the ground stated therein and no additional grounds may be supplied.
8. For these reasons we are of the opinion no case for grant of leave to appeal is made out and the application for leave to appeal being CAN 1 of 2024 is dismissed.

¹ Anupal Singh and Ors. vs. State of Uttar Pradesh, (2020) 2 SCC 173

9. Accordingly, MAT 895 of 2024 and connected applications being CAN 2 of 2024 and CAN 3 of 2024 are also dismissed.

I agree.

(Biswaroop Chowdhury, J.)

(Joymalya Bagchi, J.)