

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***M. A. T. 1442 of 2024
(CAN 1 of 2024)***

***Ashok Halder
-Vs-
State of West Bengal & Ors.***

For the Appellant : Mr. Syed E. Huda, Adv.
Sk. Aptabuddin, Adv.
Mr. Himadri Roy, Adv.
Ms. Nabella Akbar, Adv.

For Respondent No. 6 : Mr. Samin Ahammed, Adv.
Mr. Aniruddha Singh, Adv.
Ms. Gulsanwara Pervin, Adv.

For the State : Mr. T. M. Siddique, Adv.
Mr. Amritlal Chatterjee, Adv.
Mr. Suddhadev Adak, Adv.

Heard on : 24.09.2024

Judgment on : 24.09.2024

Joymalya Bagchi, J. :-

1. By the impugned order the authority concerned was directed to fill up the proposed vacancy in accordance with law and in terms of the notification and Government order dated 17.08.2021.

2. Learned Advocate for the appellant argues his client had applied for the vacancy and was found eligible for appointment by the District level fair price shop selection committee. He further submits appellant has an attached shop and accordingly, the prescribed area i.e. 200 sq. ft. may be reduced to 100 sq. ft. as per Government order dated 17.08.2021. Accordingly, the Hon'ble Single Judge ought to have issued a mandamus upon the authority concerned to appoint him to the vacancy as per Government order dated 17.08.2021.

3. Appellant as well as private respondent no.6 had applied for the fair price shop vacancy. Though private respondent no.6 was found eligible and offer letter was issued, this came to be challenged by the appellant in the present writ petition.

4. During hearing of the writ petition, Hon'ble Single Judge held private respondent no.6 was ineligible as he did not have a registered lease agreement in respect of the site on the date of application as per paragraph 5 of Government order dated 17.08.2021. Accordingly, Hon'ble Single Judge cancelled his appointment. With regard to the appellant, Hon'ble Single Judge held area of the proposed shop room did not satisfy the prescribed size i.e. 200 sq. ft. but in the event the same is an attached shop room the said criteria is reduced to 100 sq. ft. which may be considered by the appropriate authority.

5. Under such circumstances, Hon'ble Single Judge directed the authority concerned to fill up the vacancy in light of the notification and Government order dated 17.08.2021.

6. We find no reason to interfere with the order impugned save and except directing the authority concerned to consider the case of the appellant in light of the notification and Government order dated 17.08.2021 within eight weeks from the date of communication of this order.

7. With the aforesaid direction, appeal is disposed of.

8. In view of disposal of the appeal, connected application being CAN 1 of 2024 is also disposed of.

9. There shall be no order as to costs.

10. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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