

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present: - Hon'ble Mr. Justice Subhendu Samanta.

WPA No. 19143 of 2023

IN THE MATTER OF

Puja Singha.

Vs.

The State of West Bengal & Ors.

**For the Petitioners : Mr. Himadri Chakraborty, Adv.,
Mrs. Priyanka Chandra, Adv.,
Ms. Debjani Sengupta Adv.,**

**For the State : Mr. Suman ghosh, Adv.
Mr. Parikjshit Goswami Adv.**

Reserved on : 25.06.2024

Judgment on : 23.07.2024

Subhendu Samanta, J.

1. The petitioner is an unmarried lady belongs to Scheduled Caste category. The Government of West Bengal Department of Food and Supplied had issued notification being Memo No. 629/ESTT/SCFS/RGJ 2022 dated 18.11.2022 for vacancy of fair price shop. The petitioner filed application for issue of licence of fair price shop dealership in respect of such notification. For the location of Singtor, near Singtor Sishu Sikhsha Kendra at Mouja- Pocha Danga, under P.S- Kaliyagang, District - Uttar Dinajpur.

2. It is the case of the petitioner that the private-respondent had also applied for the said licence on 06.05.2023. The petitioner made a representation to the District Magistrate concern for issuance of the said licence.

3. It is the case of the petitioner that after application, the inspection was conducted at the proposed godown of the petitioner on 22.02.2023. Thereafter she came to know that the private respondent was appointed for the said MR Dealership. She made several representation before the concerned authority on 05th June, 2023 contending inter alia that the private respondent is a Civic Volunteer under the Police Department but his candidature was accepted illegally by violating the terms of the notification. Her representation was not considered, thus the instant writ petition was preferred.

4. The state authority has used affidavit against the writ application contending inter alia that the decision of the State authority is not incorrect. The respondent No. 6 became competent and suitable person to hold the licence for the proposed vacancy. The State authority is also of opinion that though the respondent No. 6 is a Civic Volunteer but, he did not hold any "post" under the Government of West Bengal. Civic Volunteers are working purely temporary basis under the "no work no pay system". Thus there is no scope of violation of any terms of any clause of the vacancy notification.

5. In support of his contention Mr. Suman Ghosh Learned Counsel appearing on behalf of the states submits that issue has been settled by this court in **Nur Islam Dalapati Vs. State of West Bengal** in **WPA 9698 of 2022**. Wherein this court has held that Civic Volunteers do not hold any “civil post” under the State Government, so they are entitled to license of FPS.

6. In reply the petitioner submits that in terms of notification of the Government of West Bengal dated 22.05.2023, the petitioner being unmarried and Scheduled Caste candidate is entitled to get additional 10 marks in score based marking system.

7. Heard the Learned Advocates.

8. Perused the observation of this court in **WPA 19143 of 2023**. It appears to me that the representation of the petitioner was not at all considered by the Concerned Authority.

9. It is true the stand of the State authority may find support from some legal pronouncement, but the authority concern is duty bound to response in accordance with law in terms of the representation made by the present petitioner. The authority concern cannot keep themselves mum after receiving the representation of the petitioner. However, the petitioner being an applicant is entitled to know the fate of her application.

10. Considering the above aspect the instant writ petition is disposed of with a direction to the concerned State Authority to disposed of representation of the present petitioner dated 05.06.2023 within 04 weeks from date after giving her a reasonable opportunity of being heard.

11. Decision of the respondent authority, so arrived at, shall be intimated to the petitioner within 02 weeks thereafter.

12. Under the above observation the instant writ petition is disposed of. Connected applications, if pending, are also disposed of.

13. Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)