

02.12. 2024
item No. 5
n.b.
ct. no. 24

WPA 20460 of 2023

Mijanur Rahaman

Vs.

The State of West Bengal & Ors.

Mr. Ram Anand Agarwala,
Ms. Nibedita Pal,
Mr. Ananda Gopal Mukherjee,
Ms. Sonam Ray,
Ms. N. Khatoon,
..... for the petitioner.

Mr. Supratim Dhar,
Mr. Amrita lal Chatterjee,
..... for the respondent.

The petitioner applied for FPS Vacancy Notification issued by the SCFR, Basirhat vide Memo No.1073/SCF&S/BHT/2020 dated 17.2.2022. After receiving the application, the concerned authority has issued intimation to the petitioner that the proposed godown-cum-showroom of the petitioner would be inspected, which was duly inspected on July 19, 2022 by the concerned Inspector of the Food & Supply Department. Thereafter, the petitioner has come to know in the portal that his candidature has been rejected after enquiry. It comes to the notice of the petitioner that the appointment was given in favour of the respondent no.5. The petitioner challenged the appointment of respondent no.5 in respect of that FPS in this writ petition.

Mr. Agarwala, learned counsel appearing on behalf of the petitioner submits that the authority concerned has submitted a report in the form of an affidavit, wherein the inspection report in respect of the godown-cum-shop room of the petitioner was calculated to be 135 sq. ft. He submits that the report is erroneous. The petitioner has placed a sanctioned plan issued by the concerned Gram Panchayat, wherein measurement of the proposed office room of the petitioner was mentioned as 270 sq. ft. He submits that on the basis of erroneous enquiry report, the candidature of the petitioner was cancelled. Mr. Agarwal submits that necessary direction is required from this court so that re-enquiry can be conducted at the instance of the higher authority.

Mr. Chatterjee, learned counsel appearing on behalf of the State respondent submits that the enquiry report is sufficiently proved the area of the shop room of the present petitioner. He further submits that the area of godown of the present petitioner was correctly noted as 405 sq. ft., but the sales counter was calculated to be 135 sq. ft. Mr. Chatterjee, learned counsel submits that one report cannot be accepted in respect of the area of godown and the same cannot be denied in respect of area of sales counter. He further submits that the area of the godown of the private respondent is more spacious than the petitioner. Thus, the private respondent was selected to be more successful

candidate. If the re-enquiry can be done at present, chance of further construction by the petitioner after inquiry cannot be ruled out.

Mr. Chatterjee, learned counsel further argued that it is unknown, whether the petitioner has enlarged his previous shop room in the meantime.

Mr. Agarwal, learned counsel also demonstrated other grounds to challenge the appointment of private respondent no.5.

In this situation, it appears to me that the petitioner has not filed any formal representation with the concerned authority. So, I think it necessary that the re-inspection may be done over the proposed shop room-cum-godown of the petitioner at the instance of the Director, District Distribution Procurement and Supply being respondent no.2 of this matter.

Accordingly, the instant writ petition is disposed of with a direction of the petitioner to submit proper application of the respondent no.2 for re-enquiry of the proposed sales counter of the petitioner within a week from date.

The respondent no.2 shall appoint an appropriate authority/officer to re-enquire the proposed shop-cum-sales counter of the petitioner. The inspecting officer shall take measurement of the proposed shop room/office of the petitioner and shall also take note, if there is any new further construction after first enquiry

through a reliable local authority. After receiving such report, the respondent no.2 shall pass a reasoned order within four weeks thereafter and the reasoned order be communicated to the petitioner within two weeks thereafter.

The respondent no.2 shall allow the petitioner to an opportunity of being heard.

Under the above observation, the instant writ petition is disposed of.

I make it clear that this Court has not gone into the merits of this matter. All grounds for challenge the candidature of respondent no.5 are kept upon.

The respondent no.2 shall take the reasoned decision without being influenced by any order of this Court.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)