

**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

MAT 1845 of 2024
CAN 1 of 2024
Smt. Milani Kandar Bisai
Vs.
State of West Bengal & Ors.

For the Appellant : Mr. Kamalesh Bhattacharya
Mr. Aswini Kr. Bera

For the State : Sk. Md. Galib
Ms. Ashmita Chakraborty

Heard on : 01.10.2024

Judgment on : 01.10.2024

Joymalya Bagchi, J.:-

1. Appellant has assailed judgment and order dated 3.9.2024 whereby appellant's application for selection as a fair price shop dealer was rejected on the ground that she does not satisfy the eligibility criteria.
2. Factual matrix giving rise to the appeal is to the effect that a vacancy notification was advertised on 4.11.2022 with regard to a fair price shop. Appellant and private respondent no. 5 applied in

response to the advertisement. A field enquiry was conducted on 11.1.2023 and on the strength of the enquiry report, sub-divisional controller, inter alia, found the appellant ineligible for the following reasons :-

“Applicant’s proposed shop cum godown does not fulfil GO 1707- FS. Hence, not suitable. Location is in corner of vacancy area and approach road is very narrow and not accessible for four wheeler”.

This came to be approved by the District Level Fair Price Shop Selection Committee on 24.2.2023. We are informed a new notification for filling up the vacancy has since been issued.

3. Mr. Bhattacharya disputes the finding in the enquiry report. He submits the schedule to the deed of lease shows the area of godown is 660 sqft. He also refers to a site plan wherein the godown is shown as 403.5 sqft. and office area as 232 sqft.
4. Mr. Galib draws our attention to clause 50 of the enquiry report which shows measurement of the godown is 385 sqft. which is below the permissible criteria.
5. We have considered the rival submissions of the parties. GO no. 1707-FS inter alia prescribes minimum area of 400 sqft. for godown and 200 sqft. for shop room. Enquiry report shows the godown of the appellant is 385 sqft. which is below the prescribed limit. It is also relevant to note that the character of land on which the shop room is situated is described as ‘Jal’. Nothing is placed on record to show that the land had been converted to ‘Bastu’ before the

decision of the District Level Fair Price Shop Selection Committee on 24.2.2023. Moreover, documents relied by the appellant with regard to size of the godown is inconsistent and does not inspire confidence. While the schedule to the deed of lease area of the godown is shown as 600 sqft., the sketch map appended thereto specifies a different area.

6. Given this situation, neither the enquiry report nor the decision of the District Level Fair Price Shop Selection Committee thereon can be said to be faulty. Much water has flown since then and vacancy notification has again been advertised and selection for the vacancy is in process.
7. In such view of the matter we find no reason to interfere with the impugned order.
8. Appeal is accordingly, dismissed.
9. There shall be no order as to costs.
10. Urgent Photostat certified copy of judgment, order if applied for be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)