

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**PRESENT:
THE HON'BLE JUSTICE BIVAS PATTANAYAK**

**W.P.A. 23446 of 2023
Mst. Ferdowsi Biswas
versus
The State of West Bengal & Ors.**

For the Petitioner	: Mr. Srijib Chakraborty, Advocate Mr. Somnath Adhikary, Advocate Mr. Biswajit Sarkar, Advocate Ms. Rupsa Sreemani, Advocate
For the State	: Mr. Amritalal Chatterjee, Advocate
For the Respondent No. 10	: Mr. Sagar Bandyopadhyay, Advocate Ms. Soma Kar Ghosh, Advocate
Heard on	: 24.01.2024, 06.02.2024, 23.02.2024, 19.03.2024
Judgment on	: 16.08.2024

Bivas Pattanayak, J. :-

1. This writ petition has been filed under Article 226 of the Constitution of India for cancellation of appointment of respondent no.10 as M.R. Dealer and for issuance of FPS Dealership licence in favour of the petitioner.

2. The brief fact of the petitioner's case is that the petitioner and the respondent no.10 amongst others were the applicants in respect of vacancy notification being Memo No. 592/SCFS/BER/2022 dated 11th May, 2022 declaring vacancy in respect of engagement of Fair Price Shop dealer for the location Mahammadpur covering Chadipur village, Mahammadpur. Upon such application being made, pursuant to the

vacancy notification, inspection was conducted and the petitioner was found to be most suitable. However, later on, the petitioner came to learn that the respondent no.10, Jahangir Hossain, has been selected as FPS Dealer against such vacancy notification. The petitioner on 24th July, 2023 approached the District Magistrate, Murshidabad by a representation requesting him to take steps for inquiring into the matter of such selection of respondent no.10. On 26th July, 2023, another representation was also made before the Sub-Divisional Controller (Food and Supplies), Berhampore Sadar. Since the representations made by the petitioner challenging such appointment of respondent no.10 was not considered, the petitioner filed the present writ petition for cancellation of appointment of respondent no.10 as FPS Dealer and issuance of licence in her favour.

3. Despite service of notice, respondent no.10 did not appear at the first instance. In compliance to order dated 13th October, 2023, the State filed its report on 2nd January, 2024 and exception was filed on 9th January, 2024 by the petitioner. On 24th January, 2024, supplementary affidavit was filed by the State-respondent. Thereafter the matter was taken up for hearing. During the course of hearing, learned advocate representing respondent no.10 intervened to make his oral submission opposing the prayers made by the petitioner in the writ petition.

4. Mr. Srijib Chakraborty, learned advocate for the petitioner submitted that the petitioner was found to be eligible for the grant of licence against such vacancy notification. However, the petitioner came to learn subsequently that the respondent no.10, Jahangir Hossain, has been granted the licence. The petitioner being an unemployed lady having all

eligible criteria including spacious, well-ventilated shop-cum-godown with *pucca* construction with concrete roof and having financial solvency applied in response to such vacancy notification. The size of godown of the petitioner is 446.82 sq.ft. and the shop is 200.18 sq.ft. which is much more in comparison with the shop-cum-godown of the respondent no.10 measuring 625 sq.ft. Further the space in front of the godown of the petitioner is much more than the space available in front of the godown of the respondent no.10 for unloading of goods. The State-respondent in its report contended that the main thing is the vicinity of the shop-cum-godown from the central place and since the primary consideration is the location which is beneficial to the public at large, the State takes into consideration the location of shop-cum-godown from the central location. Applying such principles, the State-respondent should have granted licence to the petitioner since her godown as per report is 50 metre away from the central place whereas the godown of the respondent no.10 as per report is at a distance of 100 metre from the central point. Further as per the eligibility criteria, the godown should have a *pucca* construction with concrete floor whereas as per report the roof of the godown and sale counter of respondent no.10 is made of CI Sheet. The godown and sale counter of respondent no.10 are on different floor and are not adjacent to each other. In spite of such lackings, the authorities awarded extra marks to respondent no.10. Moreover, referring to clause 7 of the notification dated 17th August, 2021, he submitted that since the petitioner is a single woman candidate and hold a Master degree, she ought to have been given preference over respondent no.10 who has only passed VIII standard.

Therefore, in the aforesaid circumstances, the licence issued to respondent no.10 is arbitrary and illegal. Accordingly, the appointment of respondent no.10 should be cancelled and licence be issued in favour of the petitioner.

5. Mr. Sagar Bandyopadhyay, learned advocate appearing for respondent no.10, in reply to the aforesaid contention, submitted that as per notification, the proposed shop-cum-godown should be either of ownership or of leased/rented property. The proposed shop-cum-godown of the petitioner is a leased property. As per notification the applications were supposed to be filed by the applicants within 21st day from the date of publication (i.e. 11th May, 2022) which means that the documents along with the application were to be submitted within June, 2022. The registered lease deed is dated 19th September, 2022. Such fact clearly shows that on the date of making application, there were no registered lease deed of the petitioner hence her application was incomplete. The State-respondent ought to have rejected the application of the petitioner solely on such ground, however, it proceeded to conduct inspection and call the petitioner for interview for the reasons better known to them. Since the petitioner was not eligible on the date of application, hence no legal right accrued in her favour. The supplementary affidavit filed by State-respondents at page 15 also records that the registration of the lease deed was incomplete. Since the applicant on the date of application was not an eligible candidate, there is no obligation on the part of the Court to protect an applicant whose application fails to meet the norms stipulated. The extraordinary power of Court should be used only in an appropriate case to advance cause of justice and not to defeat the rights of other or create

arbitrariness. In support of his contention, he relied on the decision of Hon'ble Supreme Court passed in ***Rakesh Kumar Sharma versus State (NCT of Delhi) and Others***¹. He further submitted that there was no case made out by the petitioner of any arbitrariness, bias or malafide action on the part of the State authorities. Therefore, the action of the State-respondent to appoint respondent no.10 as M.R. Dealer cannot be interfered with. The Court does not sit as a Court of Appeal but merely reviews the matter in which the decision was made. The Court does not have the expertise to correct the administrative decision. If review of the administrative decision is permitted, it will be substituting its own decision without necessary expertise which itself may be fallible. The right to choose or select a particular candidate cannot be said to be an arbitrary action. Any judicial interference in such selection would amount to encroachment on the exclusive right of the executive to take a decision. Of course if the said power is exercised for any collateral purpose, the exercise of that power will be struck down. The power of judicial review thus can only be exercised if there is unreasonableness, irregularities, arbitrariness and in order to avoid biasness or malafide. To buttress his aforesaid contentions, he relied on the following decisions:

- (i) ***Agmatel India Private Limited versus Resoursys Telecom and Others***²
- (ii) ***Municipal Corporation, Ujjain and Another versus BVG India Limited and Others***³

¹ (2013) 11 SCC 58

² (2022) 5 SCC 362

³ (2018) 5 SCC 462

(iii) ***Sridip Chatterjee versus Gopa Chakraborty and Others***⁴

(iv) ***Masadul Sk. versus Md. Firoz Muktadir Hossain and Ors.***⁵

In light of his aforesaid submissions, he prayed for dismissal of the writ petition.

6. Mr. Amritlal Chatterjee, learned advocate for the State-respondents submitted that the Selection Committee are the best person to make assessment and evaluation of the performance of the candidates. In the present case at hand, the Selection Committee has awarded marks after proper assessment and no case of any arbitrariness or biasness is coming forth from the side of the petitioner. The Court while exercising power of judicial review cannot step into the shoes of the Selection Committee or assume an appellate role to examine whether the marks awarded by the Selection Committee in the *viva-voce* are excessive and not corresponding to their performance in such test. The assessment and evaluation of performance of candidates appearing before the Selection Committee/ Interview Board should be best left to the members of the committee. In support of his contention, he relied on the decision of Hon'ble Supreme Court passed in ***Tajvir Singh Sodhi and Others versus State of Jammu and Kashmir and Others***⁶. He seeks for dismissal of the writ petition.

7. In reply to the submissions advanced on behalf of the respondent no.10 as well as State-respondent, Mr. Chakraborty, learned advocate for the petitioner submitted that the marks awarded to the respondent no.10 is excess so far as the proximity of the shop-cum-godown from the central

⁴ (2019) 15 SCC 59

⁵ MAT 2127 of 2023 (Decision of High Court at Calcutta)

⁶ 2023 SCC OnLine SC 344

location and the building type is concerned. Further since the lease deed was executed on 16th June, 2022 and subsequently registered, the authorities found the petitioner to be eligible as per column 65 of the inquiry report. Therefore, it would be incorrect to state that the petitioner was ineligible on the date of application. The decisions relied on behalf of respondent no.10 in *Agmatel India Private Limited (supra)* and *Sridip Chatterjee (supra)* are factually different and does not apply to the present case. Referring to paragraph no.23 of the decision in *Rakesh Kumar Sharma (supra)*, he submitted that the extraordinary power of the Court should be used in the present case to advance cause of justice. Relying on the decision in *Municipal Corporation, Ujjain (supra)*, he submitted that since factually there is arbitrariness in the action of the State, such action should be interfered as there is impropriety. Moreover, the case of the petitioner stands established and should be accepted applying the doctrine of non-traverse as no affidavit-in-opposition has been filed by respondent no.10 against the contention of the petitioner. Relying on the decision of Hon'ble Supreme Court passed in ***M.P. Power Management Company Limited, Jabalpur versus Sky Power Southeast Solar India Private Limited and Others***⁷, he submitted that where there is arbitrary State action, the Court's approach in dealing with the same would be guided by, undoubtedly, the overwhelming need to obviate arbitrary State action in cases where the writ remedy provides an effective and fair means of preventing miscarriage of justice arising from palpably unreasonable action by the State.

⁷ (2023) 2 SCC 703

8. Having heard learned advocates for respective parties, following issues have fallen for consideration:

- (i) Whether the grant of licence of M. R. Dealership in favour of respondent no.10 is arbitrary, malafide and borne out of biasness?
- (ii) Whether the petitioner on the date of application was an eligible candidate and has the right to intervene in the appointment of respondent no.10?

ISSUE NO.1: WHETHER THE GRANT OF LICENCE OF M. R. DEALERSHIP IN FAVOUR OF RESPONDENT NO.10 IS ARBITRARY, MALAFIDE AND BORNE OUT OF BIASNESS.

9. In order to examine the aforesaid issue, it would be apposite to reproduce the marks awarded to the petitioner and respondent no.10 by the enquiry authority in a tabular form as hereinbelow from page 16 of the Supplementary affidavit filed by State-respondents.

Applicant's name	Marks for size of godown	Marks for size of Attached shop	Marks for Nature of possession	Marks for Proximity of Shop	Marks for building type	Marks for truck unloading	Marks for domicile	Marks for category of applicant	Marks from enquiry (out of 75)
Jahangir Hosssain (respondent no.10)	15	8	10	10	10	5	10	2	70
Mst Ferdowsi Biswas (petitioner)	10	8	8	10	10	5	10	3	64

10. The Supplementary affidavit further reveals that the District Level Fair Price Shop Selection Committee (DLFPSSC) at page 13 and 15 respectively has awarded 24 out of 25 marks to respondent no.10 and 22 out of 25 marks to the petitioner.

11. Now let me examine whether the extent of marks awarded under each category is commensurate with the norms laid down in notification being

No. 2750-FS/Sectt./Food/4P-9/2012 dated 17th August 2021 of the Government of West Bengal, Department of Food and Supplies. In order to do so the table containing the marks for specific criteria as notified in the order is reproduced hereunder:

Sl. No.	Specification/criteria	Mark
1.	Size of Godown: a) 601 sq ft or more b) 501 sq ft – 600 sq ft c) 400 sq ft – 500 sq ft	15 10 05
2.	Size of Attached Shop cum distribution centre : a) 401 sq ft or more b) 301 sq ft – 400 sq ft c) 100 sq ft – 201 sq ft	10 08 05
3.	Nature of Possession – of both shop and godown : a) Ownership b) Long term Lease agreement of 10 year c) Registered Rental	10 8 5
4.	Proximity of shop cum distribution centre to godown a) Adjacent to each other b) Non adjacent	10 5
5	Building type – shop and godown: a) located on same floor – ground floor b) located on different floors – shop cum distribution centre on ground floor c) located on different floors – godown on ground floor	10 8 5
6	Whether 10 T Truck can reach the Godown for unloading: a) Yes b) No	5 3
7	Domicile : a) Resident of the GP/Ward b) Non- Resident of the GP/Ward	10 5
8	Category of applicant: a) Scheduled Tribe b) Scheduled Caste c) Other Backward Classes d) Others	5 4 3 2 1

(i) Marks for size of Godown:

(a) As per the enquiry report in respect of applicant Jahangir Hossain (respondent no.10 herein) the size of his godown is 696.92 Square feet. Thus, it is more than 600 square feet. The respondent no.10 has been awarded 15 marks which is correct.

(b) As per the enquiry report in respect of applicant Mst. Ferdowsi Biswas (petitioner herein) the size of her godown is 507.5 Sq. ft. Thus, it falls within 501 to 600 Sq. ft. The petitioner has been awarded 10 marks which is correct.

(ii) Marks for size of attached Shop:

Both the petitioner and respondent no.10 has been awarded 8 marks each. The enquiry reports of the respective parties shows that the size of attached shop of petitioner is 268.85 Sq. ft. whereas that of respondent no.10 is 256.2 Sq. ft. Both the shops of the respective parties measure more than 201 sq. ft. Be that as it may, there are no specific marks for shops measuring between 202 sq. ft. and 300 sq. ft. The State authorities on enquiry chose to provide 8 marks to each candidate applying the marks in respect of the size falling between 301 sq. ft. and 400 sq. ft. which in the opinion of this Court is fair and no intervention is called for.

(iii) Nature of possession:

Admittedly, the petitioner's offered shop-cum-godown is a leased out property as claimed whereas that of respondent no.10 is a ownership one. The petitioner has been awarded 8 marks whereas the respondent no.10 has been awarded 10 marks which is correct.

(iv) Marks for proximity of Shop:

Both the petitioner and respondent no.10 has been awarded 10 marks each.

It has been strenuously argued on behalf of the petitioner that as per the enquiry report the shop and godown of respondent no.10 are separated by a distance of 5 ft. and therefore it is not adjacent and hence respondent no.10 fails to fulfil the eligibility criteria of the vacancy notification.

Clause no.12 (iv) at Part-2 of the notification requires that a covered space of at least 200 sq.ft. should be adjacent to the godown to be used for office purpose and for FPS automation. The enquiry report in respect of respondent no.10 shows that the godown and shop are separated by 5 ft. distance. The meaning of the word '*Adjacent*' (as per Webster's Encyclopedic Unabridged Dictionary of the English Language Delux Edition) is something lying near, close. In all prudence the distance of 5ft between the godown and shop of respondent no.10 is near and in close proximity to the godown. Therefore, the marks awarded by the State authorities does not call for interference.

(v) Marks for type of building :

Both the petitioner and respondent no.10 has been awarded 10 marks each.

It has been asserted on behalf of the petitioner that the shop-cum-godown of the petitioner is a '*pucca*' and concrete structure whereas the shop-cum-godown of respondent no.10 has only *pucca* walls and

the roof is not concrete and is covered by C.I sheet. Moreover, the godown and the shop are on different floors. Therefore, respondent no.10 failed to fulfil the eligibility criteria of having *pucca* and concrete shop-cum-godown as per the notification.

Clause no.12 (iv) at Part-2 of the notification requires that the godown must be well ventilated *pucca* structure with a concrete floor. The enquiry report in respect of respondent no.10 shows that the walls of the shop-cum-godown is '*pucca*' and roof covered by C.I sheet. Be that as it may, the notification does not specify that the roof should also be concrete. Further the argument that the godown and shop of respondent no.10 is on different floor cannot be accepted inasmuch as the roof of the godown as well as the shop is of C.I sheet and thus there cannot be any construction over the such structure having C.I sheet on the roof.

In light of the above discussion, the marks given by the State authorities does not call for interference.

(vi) Marks for truck loading:

Both the petitioner and respondent no.10 has been awarded 5 marks each.

It is the contention of the writ petitioner that more than 8 to 10 trucks can be parked in front of godown of the petitioner for unloading of ration goods whereas there is no such space available in front of the godown of respondent no.10 and the licensing authority ought not have granted license in favour of respondent no.10.

The enquiry reports in respect of godown of petitioner as well as respondent no.10 records affirmative that the width of approach road is sufficient for loading and unloading. Therefore, such contention raised by the petitioner does not stand to reason and at the same time the marks awarded also does not call for any interference.

(vii) Marks for domicile:

Both the petitioner and respondent no.10 has been awarded 10 marks each and no dispute has been raised with regard to the same.

(viii) Marks for category of applicant:

Under this head the State authorities have granted 3 marks to the petitioner and 2 marks to respondent no.10, which has also not been disputed.

12. It has been vociferously argued on behalf of the petitioner that as per the report of the State-respondent the vicinity of the shop-cum-godown from the centre location is a vital criterion for grant of licence. Since the enquiry reports reveal that the shop-cum-godown of petitioner is 50 metres away from the central location whereas that of respondent no.10 is 100 metres away, hence the licence ought to have been granted in favour of the petitioner. It is a fact that that as per the enquiry reports the shop-cum-godown of petitioner is 50 metres away from the central location whereas that of respondent no.10 is 100 metres away. Be that as it may, the aforesaid notification dated 17th August, 2021 does not provide for any marks against such criteria. Moreover, the difference is of nominal 50 metres. The administrative decision has been taken for the benefit of

public at large bearing in mind the entirety of the aspect which cannot be called into question only on such ground. Hence the objection raised by the petitioner on such ground does not stand to reason.

13. Upon considering the aforesaid, it is found that there is no arbitrariness or malafide emanate from the action of the State-respondents in issuing license in favour of respondent no.10. When there is no case of malafide or arbitrariness, there cannot occasion any intervention in the decision taken by the State-respondents in granting license in favour of respondent no.10. This court finds substance in the submissions of Mr. Bandapadhyay, learned advocate for respondent no.10 relying on *Agmatel India Private Limited (supra)*, *Municipal Corporation, Ujjain (supra)*, *Sridip Chatterjee (supra)* and *Masadul Sk. (supra)* as well as Mr. Chatterjee, learned advocate appearing for State-respondents relying on *Tajvir Singh Sodhi (supra)*.

14. It has been strenuously argued on behalf of the petitioner referring to clause 7 of the notification dated 17th August, 2021 that since the petitioner is a single woman candidate and hold a Master degree, she ought to have been given preference over respondent no.10 who has only passed VIII standard. Upon bare reading of clause no.7 of the aforesaid notification it manifests that in case of two or more individuals with same / similar credentials qualify for a particular dealership preference would be given in descending order *firstly* to Single woman (unmarried/ widowed/ separated with a court decree/order) and *secondly* graduate unemployed individuals. It is not the case at hand that the parties herein are having same/ similar credentials. Rather it is found that after allotment of marks

at the enquiry level and at the Selection level, the respondent no.10 has more marks than the petitioner. The allotment of such marks to respondent no.10 has already been found to be without any arbitrariness or malafide. Therefore, the question of giving preference to the petitioner on such ground does not arise at all.

15. Mr. Chakraborty, learned advocate for the petitioner tried to impress upon the court relying on *M.P Power Management Company Limited, Jabalpur (supra)* that the approach of the court would be guided by overwhelming need to obviate arbitrary State action, in cases where writ remedy provides an effective and fair means of preventing miscarriage of justice arising from palpable unreasonable action of the State. Be that as it may, from the discussion made in the foregoing paragraphs since it has been found that there is nothing arbitrary or malafide in the action of State to grant license in favour of respondent no.10, hence the ratio of the decision does not apply to the facts of the present case.

16. Referring to *Rakesh Kumar Sharma (supra)* Mr. Chakraborty, learned advocate for the petitioner indicated that in order to advance the cause of justice, the court should invoke its extraordinary powers. Since from the aforesaid discussion no illegality or arbitrariness has been found in the action of the State, so the facts does not call for invocation of extraordinary powers.

ISSUE NO.2: WHETHER THE PETITIONER ON THE DATE OF APPLICATION WAS AN ELIGIBLE CANDIDATE AND HAS THE RIGHT TO INTERVENE IN THE APPOINTMENT OF RESPONDENT NO.10.

17. Admittedly, the petitioner applied for grant of FPS dealership license offering shop-cum-godown taken on lease. The notification for engagement

of FPS dealer at location Mahammadpur covering Chadipur village, Mahammadpur was issued on 11th May, 2022. The petitioner applied on 17th June, 2022. Part-4 of the vacancy notification in clause no.14 (vii) is reproduced hereunder for convenience of discussion.

“(vii) Documents regarding possessional right over the proposed place of business-

a) In case of ownership/shared ownership: (a) photocopy of Record of Rights/ Registered Deed of Conveyance/purchase/gift in the name of applicant, b) Document showing character of land as ‘dokaan/commercial/bastu’ if Record of Rights is not produced, (c) Up to date property tax receipt and (d) NOC of other co-owners (in case of shared ownership of the offered shop cum godown).

b) for leased/rented property: Registered Lease Deed or Tenancy Agreement with copies of rent receipts for all the months from the date of agreement till date of application and Registered Deed/RoR in the name of the land owner (or lessor).”

18. Upon considering the aforesaid requirement, it manifest that a registered lease deed and registered deed/ Record of rights of the land of owner (or lessor) is to be attached with the application. On perusal of the lease deed (Annexure P5 at page 31 of the writ petition), it is found that the same has been registered on 19th September, 2022. Therefore, on the date of application i.e. on 17th June, 2022, there was no registered lease deed available with the petitioner and the petitioner could not have attached the registered lease deed along with her application. Hence the application of the petitioner was, thus, incomplete. The petitioner was ineligible for the reason of not having a registered lease deed in her favour on the date of application in respect of the offered land. The supplementary affidavit filed by State-respondents at page 15 also records of incomplete registered deed. The State authorities ought not to have processed the application of the petitioner any further on such ground. It has been argued on behalf of

the petitioner that on the date of application the lease was executed and due to such reason her application has been processed further by the State-respondents as per the rules and regulations. Such contention on behalf of the petitioner cannot be accepted in view of express requirement of eligibility criteria to attach registered lease deed on the date of application.

19. Now in view of the aforesaid fact the question which crops up is whether the petitioner who herself was not eligible on the date of application has any right to intervene and challenge the appointment of respondent no.10. In order to appreciate the aforesaid query, it would be profitable to reproduce the proposition laid down by Hon'ble Supreme Court in the following decisions.

19.1. The Hon'ble Supreme Court in ***Mani Subrat Jain and Others versus State of Haryana***⁸ observed as follows:

"9. The High Court rightly dismissed the petitions. It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something or to abstain from doing something. (See Halsbury's Laws of England 4th Ed., Vol. I, paragraph 122; State of Haryana v. Subash Chander Marwaha & Ors; Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed & Ors. and Ferris : Extraordinary Legal Remedies, paragraph 198.)"

19.2. Further in ***Ayaaubkhan Noorkhan Pathan versus State of Maharashtra and Others***⁹, the Hon'ble Supreme Court observed as follows:

⁸ (1977) 1 SCC 486

⁹ (2013) 4 SCC 465

“9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order, etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide *State of Orissa v. Madan Gopal Rungta*, AIR 1952 SC 12; *Saghir Ahmad & Anr. v. State of U.P.*, AIR 1954 SC 728; *Calcutta Gas Co. (Proprietary) Ltd. v. State of W.B. & Ors.*, AIR 1962 SC 1044; *Rajendra Singh v. State of M.P.*, AIR 1996 SC 2736; and *Tamilnad Mercantile Bank Shareholders Welfare Assn. (2) v. S.C. Sekar & Ors.*, (2009) 2 SCC 784].

10. A “legal right”, means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, “person aggrieved” does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised. (Vide *Shanti Kumar R. Chanji v. Home Insurance Co. of New York*, AIR 1974 SC 1719; and *State of Rajasthan & Ors. v. Union of India & Ors.*, AIR 1977 SC 1361).

x x x

17. In view of the above, the law on the said point can be summarised to the effect that a person who raises a grievance, must show how he has suffered legal injury. Generally, a stranger having no right whatsoever to any post or property, cannot be permitted to intervene in the affairs of others.”

20. Bearing in mind the aforesaid proposition as laid down by the Hon’ble Court, since it is found from the materials on record that on the date of

application the petitioner was not eligible, hence she has failed to establish that she suffered any legal injury or she has any judicially enforceable right. A person having no right to the engagement of dealership cannot be permitted to intervene or meddle with the right of others.

21. For the reasons as recorded in the aforesaid paragraphs, the argument that since no affidavit-in-opposition has been filed hence by dint of doctrine of non-traverse, the case of the petitioner should be accepted, does not hold good.

22. In light of the aforesaid discussion the writ petition falls short of merit and is liable to be dismissed.

23. Accordingly, the writ petition being no. **W.P.A. 23446 of 2023** stands dismissed.

24. All connected applications, if any, stands disposed of.

25. Interim orders if any stand vacated.

26. Urgent photostat certified copy of the order, if applied for, be given to the parties upon compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)