

05.8. 2024  
item No.63  
n.b.  
ct. no.24

**WPA 24937 of 2023**

**Rabindrananth Singha  
Vs.  
State of West Bengal & Ors.**

Mr. Debabrata Saha Roy  
Mr. Pingal Bhattacharya  
Mr. Subhankar Das  
..... for the Petitioner

The Sub-Divisional Controller (F & S), Krishnanagar Sadar issued a notification dated 20<sup>th</sup> February, 2023 of FPS Dealership at the location of Bethudadahari – II, Post Office – Nakashipara, District – Nadia.

In terms of application, proposed godown and shop room of the present petitioner was inspected by the concerned authority and the case was placed before the District Level Fair Price Shop Selection Committee. It is the case of the petitioner that the District Level Fair Price Committee also found that the petitioner to be the most suitable candidate. The petitioner was called for hearing before the learned District Magistrate.

During the course of hearing, the concerned District Magistrate, Nadia expressed his view to grant F.P.S. License in favour of the petitioner but, due to influence of the Sub-Divisional Controller (F & S), Krishnanagar Sadar, District Magistrate was convinced to ask for registered NOC of the other co-owners or NOC to be

affirmed before the First Class Magistrate. On the self-same ground, the candidature of the present petitioner was not considered.

Hence, this writ petition.

The State authority was granted liberty to file a report in the form of affidavit. The State used the affidavit and in such affidavit it is the case of the State authority that Serial No.41D of the Notification stated about the NOC of the other co-owners, are required if it is shared ownership. The State authority is of pleadings that the petitioner has furnished Notarised copy of NOC, and the NOC/the affidavit was not sworn before the Magistrate. Thus, the NOC submitted by the petitioner cannot be accepted.

Only this short issue is involved in this writ petition. To determine the issue it is required to set out the specific portion of the notification dated 20<sup>th</sup> February, 2023.

*“Documents to be attached*

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

*It appears from the Notification that 14 (Vii) (d) required NOC. Of other co-owners (in case of shared ownership of the offered shop cum godown).”*

It appears that the present petitioner has submitted Notarised NOC over Judicial Stamp Paper of Rs.10/- of all his co-owners. The specific notification does not require

any registered NOC or NOC sworn before the learned Magistrate.

The affidavit submitted by the State containing the fact that NOC as mentioned in Notification required to be registered, is not supported by any law. However, it appears to me that the affidavit sworn before the Notary Public has same value to that of its correctness. Affidavit, is its nature, is ex parte declaration of a person/persons swaring before a competent authority regarding certain facts. Value of such ex parte declaration either before Notary Public or Magistrate are same. However, the State authority may verify the NOC whether it was signed or correctly made by the other co-sharers of the petitioner. But the ground for not considering the application of the petitioner as assigned by the concerned State authority, appears to me illegal and arbitrary; accordingly, the instant writ petition is meritorious one.

The concerned authority is hereby directed to issue the license in favour of the present petitioner after carry out the necessary formality ascertainment of the NOC of the co-owners.

All exercise has to be concluded as early as possible more specifically within three weeks from the date of communication of this order.

Accordingly, the writ petition stands disposed of.

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

**(Subhendu Samanta, J.)**