

25.02.2025
Item No.8
Ali
ct. no.24

WPA 27305 of 2023

**Julias Jaman
Vs.
State of West Bengal & Ors.**

Mr. Kingsuk Mondal,
Ms. Susingdha Bhattacharya
..... for the petitioner.
Mr. Suman Sengupta, Sr. Govt. Adv.,
Mr. S. Dutta
.... for the State.

Petitioner applied for FPS licence in pursuance to the vacancy Notification issued by Sub Divisional Controller (Food & Supplies), Domkal, Murshidabad vide Memo No. 1061/SCFS/DOM/2022 dated 19th October, 2022 through Vacancy ID 202200223517 for vacancy location Ganra Baria, Ganra Baria within Mouza & J.L. No. Ganra Baria-044.

It is the only contention of the writ petitioner that private respondent No. 10 was awarded licence, though one of his relatives i.e. private respondent No. 11 is running a FPS licence.

It is the contention of the learned counsel for the petitioner that one Emarat Sah had three sons, namely, Abdur Rajjak Sah, Alauddin Sah and Abdur Bari Sah. Private respondent No. 10 is the son of Abdur Rajjak Sah. Alauddin Sah was running the FPS licence. However, at the time when impugned vacancy was notified afterwards such licence was transferred in the

name of his son Alomgir Sah (private respondent No. 11). He submits that at the time of vacancy notification Alauddin Sah was running the business. Thus, the private respondent No. 10 cannot run the business because one of his relatives is running the business.

Learned counsel appearing on behalf of the State authority submits that the present petitioner is an unsuccessful candidate. The concerned District Level Fair Price Shops Selection Committee recommended private respondent No. 10 whose score 86 marks in total wherein the petitioner has only obtained 69 marks.

Mr. Sengupta, learned counsel appearing on behalf of the State respondent further submits that being an unsuccessful candidate; the petitioner has no right to challenge the decision of the competent authority. He place his reliance upon the decision of Hon'ble Supreme Court in ***Ramana Dayaram Shetty V. International Airport Authority (AIR 1979 SC 1628)***

Having heard the learned counsel for the parties and after perusing the report filed on behalf of the State as well as the exception by the petitioner, it appears to me that the private respondent No. 11 is a son of one Alauddin Sah. There is no material to show that Alauddin Sah was running a FPS business at the date of Vacancy Notification. Moreover, it is the admitted fact by the petitioner that one Alomgir Sah is running business. Alomgir Sah (respondent No. 11) was happened to be in

relation to the private respondent No. 10, to be "parents or brother's son".

According to the provisions of Clause 2 (xa) WBPDS (Maintenance & Control) Order, 2013, the relatives define as follows.

["(xa) "relative" includes the family member and the following kin:

- (i) Son's spouse, son or daughter;***
- (ii) Daughter's spouse, son or daughter;***
- (iii) Brother's spouse, son or daughter;***
- (iv) Sister's spouse, son or daughter;***
- (v) Parents brother or sister;***
- (vi) Spouse brother or sister]***

From the above definition of the relatives it appears that "parents, brother or sister" are coming under the definition of relatives. The present respondent No. 10 and respondent No. 11 are not coming under the definition of relatives.

Thus, in my view, the allegation raised by the present petitioner in this writ petition cannot justifiably consider.

Accordingly, the writ petition being **WPA 27305 of 2023** being meritless, dismissed and disposed of.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)