

ORDER SHEET

WPO/677/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

FIROJA BIBI
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:
The Hon'ble JUSTICE SUBHENDU SAMANTA
Date : 2nd August, 2024.

Appearance:

Mr. Asis Bhattacharyya, Adv.
Mr. Biswajit Mitra, Adv.
...for the petitioner

Mr. T. M. Siddiqui, Adv.
Ms. Amrita Panja Moulick, Adv.
...for the respondent

The Court: The present petitioner applied for MR Dealership in terms of notification dated 11th February, 2011 as per WBPDS (Maintenance and Control) Order, 2003 at the location - Madhya Dhadial under Nakkatigach G.P, P.S. Tufanganj, Dist. Cooch Behar. In terms of the said notification, the petitioner applied for the said licence through a specific application on 28th February, 2011. Her application was not processed by the concerned authority rather the concerned authority kept themselves mum. The present petitioner approached this Court in a writ petition being number WPA/2966/2023. A Co-ordinate Bench on 29th December, 2023 has directed the concerned authority to inform the petitioner regarding the fate of her application. In pursuance to the said direction, the Sub Divisional Controller, Food and Supplies Department, Cooch Behar Sadar issued a memo in favour of the petitioner on 25th January, 2024. Being aggrieved by and dissatisfied with the said memo, the present writ has been preferred.

Learned counsel appearing on behalf of the petitioner submits that the concerned authority has not acted properly in terms of the direction of this Court. He submits that it is uncertain whether the application of the present petitioner was turned down or not. It is the further case of the petitioner that the inhabitants of the locality are deprived to receive the PDS articles smoothly. They had to approach at least 4-5 kilometres to receive such PDS articles; unless and until a PDS shop has been established in the cited location, the persons of the locality shall suffer immense.

Learned counsel appearing on behalf of the respondent State authority submits that the impugned memorandum has specifically pointed out that after promulgation of National Food Security Act, 2013, all earlier notifications issued under WBPDS (Maintenance and Control) Order, 2003 became redundant. Learned counsel for the State further submits that the application of the petitioner was not at all turned down but it was not considered at present. One memo was placed during argument through the Sub Divisional Controller, Food and Supplies Department, which appears to be not actually related to the attending facts of this case. It is also submitted on behalf of the State that the application is time-barred. It was filed in the year 2011 and the representation of the petitioner was first made in the year 2023.

From the impugned memo, it appears that necessary order was sought for regarding cancellation of all earlier notifications inviting application for new vacancies. The memo also reflected that the communication for cancellation of impugned vacancy is yet to be received.

Thus, it is clear to this Court that the application filed by the present petitioner is still subsisting. Though it is the fact that the application may

not be in proper form in terms of National Food Security Act, 2013 as well as WBPDS (Maintenance and Control) Order, 2013 which has come under operation after the WBPDS (Maintenance and Control) Order, 2003, but as the said application is still pending, the authority can consider the same with necessary changes *mutatis mutandis*. As the submission has been made before this Court that the inhabitants of the locality are suffering immense reasons thereof no M.R. Shop has been established in the locality, I think it necessary to pass a necessary direction upon the authority concerned in this regard.

It is directed to the authority concerned that the concerned State authority shall take positive and appropriate steps so that a new Fair Price Shop may be established in the cited location at Madhya Dhadial under Nakkatigach G.P, P.S. Tufanganj, Dist. Cooch Behar as early as possible, more preferably within eight weeks by declaring a new vacancy as per law. In doing so, the authority concerned must consider the application of the present petitioner if she applied for the vacancy. If it appears to the authority concerned that the application of the petitioner is quite maintainable according to the law, for creation of a new shop, she may be allowed to participate in the proceedings for the new vacancy. This order shall not create any weightage in favour of the petitioner.

With the above observations, the present writ petition is disposed of.

(SUBHENDU SAMANTA, J.)