

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar**

**M.A.T No.224 of 2025
With
IA: CAN 1 of 2025**

**Gouri Das Biswas
Vs.
The State of West Bengal and others**

For the appellant	:	Mr. Shyamal Sarkar, Ld. Sr. Adv. Mr. Ram Anand Agarwala, Ms. Nibedita Pal, Mr. Ananda Gopal Mukherjee, Ms. Sonam Roy, Ms. Nasrin Khatoon
For the State	:	Mr. Sirsanya Bandopadhyay Ld. Sr. Standing Counsel, Mr. Ritesh Kr. Ganguly
For the respondent no.6	:	Mr. Pingal Bhattacharyya Mr. Rajdeep Sinha
Heard on	:	20.08.2025, 21.08.2025, 25.08.2025, 28.08.2025, 03.09.2025
Reserved on	:	03.09.2025
Judgment on	:	09.09.2025

Sabyasachi Bhattacharyya, J.:-

1. The present appeal has been preferred against the dismissal of a writ petition filed by the appellant challenging an order passed by the Principal Secretary, Food and Supplies Department, Government of West Bengal

whereby the latter disposed of the representation of the appellant by holding that the appellant is ineligible for grant of license in respect of a FPS shop-cum-godown.

2. The brief facts of the case are that a Vacancy Notification (VN) was issued by the respondent-authorities on September 1, 2023, inviting applications for grant of license against the vacancy of Fair Price Shop (Ration Shop) hereinafter refer to as "FPS". Both the appellant and private respondent participated. The appellant's application was rejected as ineligible whereas the private respondent's application was allowed.
3. Challenging the same, the appellant gave a representation to the Principal Secretary, against the non-consideration of which the appellant moved a writ petition bearing W.P.A No.22897 of 2024. The said writ petition was disposed of by a learned Single Judge of this Court vide judgment dated October 8, 2024, directing the Principal Secretary to consider the representation of the petitioner and pass a reasoned order after hearing the parties within eight weeks from the date of passing of the order. The decision was to be intimated to the petitioner (the present appellant) within two weeks thereafter. The Principal Secretary, in pursuance of the said order, decided the representation vide order dated January 24, 2025, thereby reiterating that the appellant was not eligible, giving reasons therein, which was the subject-matter of challenge in the writ petition bearing no. W.P.A No.2552 of 2025.
4. Such challenge having been turned down, the present appeal has been preferred.

5. Learned senior counsel appearing for the appellant argues that the private respondent's application ought to have been rejected on the ground of ineligibility, since the land offered for the godown by the private respondent is described as "*banshbagan*" (bamboo grove). The land was subsequently converted which, according to the appellant, could not have entitled the private respondent to be selected as eligible, since at the time of the private respondent's application, the land remained under the category of *banshbagan* in the Records of Rights.
6. Learned senior counsel further submits that the appellant and many other applicants were awarded zero marks despite meeting the eligibility criteria, whereas the private respondent was given a high score, which itself reveals bias and *mala fides* on the part of the respondent-Authorities. Alleging bias, learned senior counsel places reliance on the judgments of *Nutan Kumari vs B.R.A. Bihar University and Others* reported at 2023 SCC OnLine SC 1408 and *Vidarbha Irrigation Development Corpn. And Ors v. Anoj Kumar Agarwala and Ors.* reported at (2020) 17 SCC 577.
7. Learned senior counsel argues further that the Principal Secretary passed the final order relying on a second inquiry report without furnishing any copy of the same to the appellant and/or granting any opportunity to assail the same, which is violative of principles of natural justice. It is submitted that such violation vitiates the selection procedure, which ought to be set aside. In support of such contention, learned senior counsel cites *State Band of India and Ors. v. D.C. Aggarwal and Anr.* reported at (1993) 1 SCC 13 and *Mohd. Quaramuddin v. State of A.P.* reported at (1994) 5 SCC 118.

8. It is next contended by the appellant that in the first hearing, four charges were levelled against the appellant but the impugned order of the Principal Secretary, passed in the second round, was on a different ground which travelled beyond the charge, thereby vitiating the decision-making process. Learned senior counsel cites *Narinder Mohan Arya v. United India Insurance Co. Ltd. and Ors.* reported at (2006) 4 SCC 713 in such context.
9. Learned senior counsel next contends that without waiting for the second inquiry report, the respondent-Authorities issued FPS license to the appellant, thereby rendering the second inquiry, which was held in pursuance of the order of the learned Single Judge, academic. This itself, it is argued, shows *bias* on the part of the respondent-Authorities in favour of the private respondent.
10. It is submitted that while furnishing the second inquiry report, certain GPS-tagged photographs were used, which were relied on by the Principal Secretary. It is submitted that those documents have also been relied on before this Court, which is not permissible without compliance of Section 65B of the Indian Evidence Act.
11. Learned senior counsel submits that the appellant fulfilled the eligibility criteria in all respects.
12. Although it has been alleged by the respondent that one of the walls of the godown offered by the appellants was incomplete at the time of inspection, it is submitted that since the godown had a completed roof, it is evident that all the walls were already completed; otherwise the roof would not be supported. Hence, the principal ground on which the appellant was held to be ineligible was perverse. Accordingly, it is contended that the learned

Single Judge proceeded on an erroneous premise to dismiss the writ petition.

13. Learned Senior Standing Counsel, appearing for the State, controverts the submission of the appellant and argues that the appellant, being an unsuccessful candidate, does not have the *locus standi* to challenge the selection process for the FPS dealership.
14. In support of such proposition, learned Senior Standing Counsel cites *Sonai Food Marketing (P) Ltd. v. Bipatarini Agency and Ors.* reported at 2024 SCC OnLine Cal 3787.
15. Next relying on *N.G. Projects Ltd. v. Vinod Kumar Jain and Ors.* reported at (2022) 6 SCC 127, the State contends that an unsuccessful applicant with a grievance can always seek damages in a Civil Court, but attempts by such applicants with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, should be resisted.
16. Learned Senior Standing Counsel next argues that in exercise of its writ jurisdiction under Article 226 of the Constitution of India, a Constitutional Court is not expected to sit in appeal over the findings of the administrative or selection authority. The scope of judicial review is limited in such matters and does not extend to re-appreciation of evidence or weighing the relative merits of candidates in a selection process. The State, as the implementing authority of welfare schemes, is in the best position to adjudge and balance the suitability of contenders in the light of practical considerations and interference by courts would not only disrupt the administrative process but also encroach upon the domain of the Executive. In support of such

proposition, learned counsel cites an unreported judgment in the matter of *MAT No. 2084 of 2024 (Md. Basir Ali –V. M.M. Enterprise & Ors.)* and a judgment of the Hon'ble Supreme Court in *SLP (C) No. 6888 of 2025, (Ratanpur Biswasi Jubo Self-help Group v M.M Enterprises)*.

17. Learned Senior Standing Counsel further contends that the character of the land is not an essential criterion of selection in terms of the VN. Clause 10(vii)(A) of the VN requires the character of land on which the godown is constructed to be "Dokan/Commercial/Bastu". However, Clause 32 of form-C of the 2013 Control Order, which governs the selection process, provides that the character of land can be "Bastu/Commercial/Agricultural etc." The word "etc." allows participants with lands of other characters as well.
18. Furthermore, sub-clause(A), which deals with ownership properties, requires, under Item(a) thereunder, only production of a photocopy of the records of rights/registered Deed Of Conveyance, etc. Such requirement is diluted and made optional by the immediately succeeding Item (b) which provides that a document showing the character of land as "Dokan/Commercial/Bastu" would be sufficient if the records of rights are not produced.
19. Thus, the candidature of any of the applicants could not be rejected merely if the offered land was classified otherwise than "Dokan/Commercial/Bastu" in the records-of-rights, if any other document enumerated in Item (b), including title deed, showing the property to be of such character, was produced. In support of such submission, learned Senior Standing Counsel cites an unreported judgment of this Court in the

matter of MAT No.1300 of 2025, (*Archana Jana V.State of West Bengal and Others*).

20. It is next argued by the State that in the order dated October 8, 2024, passed in the earlier writ petition, the appellant had prayed for re-inquiry of his godown and in the meantime a prohibition on the respondents from issuing a license. However, the latter prayer was not granted. Rather, the learned Single Judge observed that a reasoned order would be passed by the respondent no.2 “without being influenced by any later decision by the State Authority for a new appointment in respect of the same location”.Thus, the learned Single Judge not only refused to grant stay of issuance of license in favour of any third party despite there being a specific prayer, but also indicated, by necessary implication, that FPS license can be issued to another candidate despite the pendency of the representation of the petition. Thus, it is contended that the grant of license to the private respondent was not vitiated by *mala fides* or bias. Moreover, during the pendency of the representation, only an offer letter had been issued to the private respondent and the license was issued thereafter.
21. In continuation of the above contention, learned counsel cites *State Bank of India v. Ram Chandra Dubey and Ors.* reported at (2001) 1 SCC 73.
22. Learned Senior Standing Counsel further submits that the law applicable on the date of the VN will govern the selection process, for which proposition learned counsel cites *Prakash Chand Meena and Ors. v. State of Rajasthan and Ors.*, reported at (2015) 8 SCC 484. In the present case, Form-C of the 2013 Control Order, which was in force at the juncture when the VN was issued, clearly provided in Clause 32 thereof that the land can

be “Bastu/Commercial/Agricultural,etc.”, thereby broadening the character of the land beyond the types specifically mentioned therein by use of the suffix “etc.”.

23. Learned Senior Standing Counsel next cites *Tej Prakash Pathak and Ors. v. High Court of Rajasthan and Ors.*, reported at (2025) 2 SCC 1, for the proposition that the process of recruitment commences from the date on which the notification or advertisement of the vacancy is issued. Once the vacancy is notified, the governing law, service rules and conditions applicable on the date of issuance of the advertisement will regulate the entire selection process. Subsequent Control Orders, thus, cannot be looked into.
24. The State next argues that there was no pleading of prejudice due to non-supply of inquiry reports to the appellant, either in the writ petition or before this Court. Natural justice, it is argued, cannot be stretched too far. Learned counsel cites *H.C. Sarin v. Union of India and Ors.*, reported at (1976) 4 SCC 765, where it was held that only too often, the people who have done wrong seek to invoke the rules of natural justice so as to avoid the consequences. In *Secretary/Correspondent St. John's College and Anr. v. Dr. S. Wilson and Ors.*, reported at (2020) 18 SCC 752, it was held that natural justice is not an unruly horse and cannot be overstretched to cover situations where it would obstruct legitimate administrative action, delay justice, or frustrate public interest.
25. By relying on *Haryana Financial Corp'n and Anr. v. Kailash Chandra Ahuja*, reported at (2008) 9 SCC 31, it is argued that if the pleadings are silent as to

prejudice, the allegation of non-supply of copies of the reports is reduced to a mere technical plea, which cannot be sustained in the eye of law.

26. Lastly, learned Senior Standing Counsel cites *State of West Bengal v. Baishakhi Bhattacharyya (Chatterjee) and Others*, reported at 2025 SCC OnLine SC 719, in support of the contention that the GPS-tagged images of the godown of the appellant during the two inquiries dated May 29, 2024, and December 11, 2024 could not be challenged by raising a technical plea of lack of compliance under Section 65-B, Evidence Act. It is contended that the compliance of section 65-B is required in the course of trial proceedings where evidence is formally adduced and is not strictly applicable to the writ jurisdiction.
27. Learned counsel appearing for the private respondent no.6, the successful applicant in the selection process, essentially adopts the arguments of the State and points out that the allegation of the appellant that her signature was obtained in a pre-printed blank sheet in the inquiry dated May 29, 2024 is frivolous and an afterthought. No such plea was taken by the appellant in the contemporaneous representation dated June 21, 2024, but was added later in the representation dated August 20, 2024, as an afterthought. Again, in the writ petition, the appellant made out a different story, that the signature of the appellant was obtained without granting opportunity to the appellant to go through the papers.
28. Upon hearing the rival contentions of the parties, the following issues fall for consideration before this Court:

- i. ***Whether the appellant and the private respondent no.6 were eligible candidates in terms of the Vacancy Notification dated September 1, 2023;***
- ii. ***Whether the grant of licence to the private respondent prior to conclusion of the second inquiry on the appellant's representation vitiated the selection process due to mala fides;***
- iii. ***Whether lack of opportunity of hearing and non-service of the second inquiry report on the appellant violates natural justice and, as such, vitiates the second inquiry report;***
- iv. ***Whether the appellant was castigated on grounds different from the charges levelled earlier;***
- v. ***Whether the writ petition was maintainable.***

Upon consideration of the materials on records, the court comes to the following findings:

- (i) ***Whether the appellant and the private respondent no.6 were eligible candidates in terms of the Vacancy Notification dated September 1, 2023.***

29. The allegation made against the appellant is that her godown was incomplete on the date when the inspection was made in terms of her application. The following dates are relevant in the context:

September 1, 2023	Vacancy Notification was issued.
April 14, 2024	Appellant submitted application
April 22, 2024	Private respondent submitted application

May 29, 2024	Appellant's inquiry was held
June 3, 2024	Private respondent's inquiry was held
June 21, 2024	Appellant gave the first representation before the Principal Secretary, alleging that the private respondent was not eligible since he is not a resident of Ranaghat but of Krishnanagar and the nature of the land offered was " <i>bansh bagan</i> ".
August 7, 2024	Hearing on the above representation.
August 20, 2024	Second representation by the appellant, introducing the allegation of her signature being obtained in a blank sheet and stating that during the inquiry, her godown was in the process of completion and was completed within a week after the inquiry.
October 8, 2024	WPA No.22897 of 2024 disposed of by the learned Single Judge, <i>inter aliadirecting</i> the Principal Secretary to consider the appellant's representation and pass reasoned order upon hearing the parties and intimate the outcome to the appellant.
November 21, 2024	The Principal Secretary directed a fresh inquiry upon hearing, to re-measure the godowns of the appellant and the private respondent.
December 4, 2024	Appellant's godown re-measured.
January 22, 2025	Offer letter issued to private respondent for appointment as FPS dealer.
January 25, 2025	Appellant's representation rejected.
January 30, 2025	WPA No.2557 of 2025 filed challenging the rejection dated January 25, 2025.

30. The primary allegation against the appellant, from the inception, was that her godown was incomplete even at the time of inquiry/inspection. In support of such allegation, we find at least two clinching pieces of evidence.
31. First, in her representation dated August 20, 2024, the appellant categorically admitted that the godown was “in the process of completion” at the time of inquiry and was completed one week thereafter. Secondly, the GPS-tagged images obtained by the respondent authorities and annexed to the second inquiry report dated May 29, 2024, as well as physical verification of the appellant's godown, clearly showed that the construction was modified after the first inspection. The specific details of such modification were also given in the report to the extent that the plinth height had been changed and the incomplete walls had been completed, which were the two cardinal grounds for rejection of her application. Thus, it is evident that the appellant tried to cure the defects which were existent at the time of the rejection of her application by taking undue advantage of the second inquiry directed by the Principal Secretary.
32. Another ground taken in the impugned order of the Principal Secretary was that the possession of the appellant in respect of the land offered by her for establishing the godown was not established. The records of rights were in the name of her husband (Bachu Das) and an unregistered tenancy agreement allegedly executed by the appellant's husband in her favour was uploaded subsequent to her application. More importantly, the notarized tenancy agreement, purportedly for 99 years, was dated June 10, 2024, that is, about two months after the appellant's application dated April 12, 2024.

33. The appellant has relied on section 65-B of the Indian Evidence Act to controvert the authenticity of the GPS-tagged images. However, as rightly argued by the State and discussed by the Supreme Court in *Baishakhi Bhattacharyya (Chatterjee)'s case (supra)*,¹ the strict procedural mandate of Section 65-B of the Indian Evidence Act, [now Section 63(4) of the Bharatiya Sakshya Adhiniyam, 2023] is not mandatory in a writ petition, since the said provision is applicable in case of suits.
34. The GPS-tagged photographs were obtained in terms of the stipulations in paragraph (C) under Clause 8 (v) of the VN. A mere comparison of the photographs taken on the date of the initial inspection and the second inspection indicates that the appellant subsequently tried *post facto* to cure the defects which disentitled her from candidature in the first place.
35. It has to be kept in mind that it was not mandatory for the Principal Secretary to hold a second inquiry, since the order of the learned Single Judge in the earlier writ petition was merely to consider the representation of the appellant upon giving opportunity of hearing to all the parties and to come to a reasoned conclusion, without there being any specific direction to hold a further inquiry. Thus, it was open to the Principal Secretary to dispose of the representation of the appellant upon giving opportunity of hearing to interested parties, without even calling for a further report, by relying on the materials which were available on the basis of the earlier inquiry.

¹***State of West Bengal v. Baishakhi Bhattacharyya (Chatterjee) and Others reported at 2025 SCC OnLine SC 719***

36. In any event, it would be rather obvious that the findings of the second report would not be germane and a second inquiry was not required at all, since the test of eligibility of the appellant has to be measured on the yardstick of the position of the godown when the first inquiry was held after her application and her candidature was rejected on the ground of ineligibility. *Post facto* status/character of the property cannot operate retrospectively and validate the otherwise ineligible candidature of the appellant.
37. Moreover, in view of the appellant herself having admitted in her representation dated August 20, 2024 that the godown was incomplete on the date of the first inspection, she did not meet one of the essential tests of eligibility as enumerated in the VN, that is, a complete godown in terms of the specifications given in the VN.
38. In this context, a reference to the appropriate clauses of the VN would be beneficial.
39. Clause 8 of the VN speaks about the eligibility criteria. Sub-clause (iv) thereof stipulates the requirement of the size of godown and shop for running ration shop, elaborately recording the particulars required, such as minimum 300 square feet space along with the covered space of 100 square feet, the godown being in a well ventilated *pucca* structure having roof made of concrete, slabs/brick slab, etc., minimum height of the godown to be 2.43 meter (8 feet) along the side walls, the plinth level should be 0.60 meter (2 feet) from road level or ground level, a verandah with shed to accommodate at least five people, etc.

40. Sub-clause (v) stipulates that the applicant against the vacancy of FPS must have a “ready godown as per the above norms on the date of inspection”.In the further paragraphs thereunder,the deviations/exceptions at the time of inspection which may be ignored have been specified.However, in paragraph (C) thereunder, it was categorically mentioned that if any of the wall or floor or ceiling/roof is incomplete on the day of the inspection, the godown will be treated as “incomplete” and the application will not be further processed. It would be marked as “Incomplete godown” in the portal and size and pictures as on the day of inspection will be uploaded. However, no marks would be allotted against such an applicant and he would be treated as ineligible.
41. Thus, the appellant did not meet the essential eligibility criterion of having a complete godown as per the specifications given in Clause 8(iv), read with Clause 8 (v), thus justifying the rejection of her application and allotment of zero marks to her in terms of paragraph (C).
42. In fact, the allegation of the appellant that the private respondent was given high score whereas the appellant and some others got zero is clearly explained by Clause 8 (v), paragraph (C), which stipulates that “no marks” would be allotted against an applicant not having a godown with complete wall or floor or ceiling/roof and such applicant would be treated as ineligible.
43. The other ground cited by the Principal Secretary, regarding the appellant not possessing the land offered by her on the relevant date, stems from Clause 8 (iv) of the VN, which required the applicant to “possess” a suitable shop-cum-godown having the norms as prescribed therein.Since

the entries in the records of rights against the plot offered by the appellant stood in the name of the appellant's husband on the date of application, the appellant was not in possession of the land offered by her. The *post facto* execution of a notarized tenancy agreement in favour of the appellant by her husband clearly goes on to show that the appellant bought time and took undue advantage of the direction of further consideration of her representation issued by the Single Judge on the earlier occasion and tried to paint a rosy picture which was non-existent on the date of her application for license.

44. Sub-clause (iv) of Clause 8 of the VN prescribes the eligibility criteria and the requirement of possession stipulated therein has not been diluted in the sub-paragraphs under Clause (v), which stipulate the permissible and non-essential deviations.
45. Thus, the appellant did not meet the essential eligibility criteria on the date of her application and the inquiry pursuant thereto and her application was rightly rejected by the respondent.
46. The appellant has raised an objection to the citation of the second ground of ineligibility in the second report of the Principal Secretary, since it was not a part of the original grounds of rejection of her application. Even if we accept such objection (although fact remains that the appellant was ineligible on such ground too and the VN did not require the respondent-authorities to cite any reasons for the rejection), the rejection of the appellant's application for license was justifiable on the first ground itself, even if the second ground were to be ignored.

47. In so far as the eligibility of the private respondent no.6 is concerned, the two allegations made against him by the appellant were that he was not a resident of Ranaghat but of Krishnanagar at the relevant time and that the nature of the land offered by the private respondent was a bamboo grove on the date of her application and inquiry.
48. For an examination of the first allegation, we are to look at Clause 8(i) of the VN, which stipulates as an eligibility criterion that the applicant shall be an individual permanently residing in the Ranaghat sub-division.
49. In the facts of the present case, the voters' list showing the appellant to be a voter from Ranaghat was produced by the appellant, along with her EPIC Card and AadharCard showing her residential address to be within the Ranaghat sub-division. Even if her name had appeared in the Krishnanagar voters' list, it might very well be that the appellant is a permanent resident of Ranaghat, which is borne out by the substantial majority of the documents submitted by her, and might have a previous residence or another residence at Krishnanagar. It may also be that at some past point of time, she was a voter from Krishnanagar.
50. However, it was not for the writ court to enter into a fact-finding inquiry to that extent, thereby going behind the decision of the respondent-authorities, which was the best judge of the eligibility of the applicants for FPS license to be issued by such authorities. Since it is well-settled that it is for the State authorities to select the best candidate on their interpretation of the eligibility criteria, unless an essential eligibility criterion was not met, the decision arrived at by the respondent-authorities in that regard, on an assessment of the documents produced by the private respondent, could

not be examined thread-bare or interfered with by the writ court. Hence, the first allegation against the private respondent fails.

51. The more crucial ground taken by the appellant against the private respondent is that the nature of the land offered by the private respondent was a bamboo grove. To ascertain the merits of such allegation, the relevant clause in the VN would be Clause 10, which provides that the applicants must submit copies or original supporting documents as stipulated in the said clause along with their application in Form A-1.
52. Sub-clause (vii) under Clause 10, in item (b) thereunder, provides that in case of ownership/shared ownership of the applicant, a document showing character of land as 'Dokan/Commercials/Bastu' would suffice if the records of rights were not produced. The preceding item (a) stipulates, as one of the optional documents to be produced, photocopy of the records of rights (*porcha*)/registered Deed of Conveyance/Purchase/Gift in the name of the applicant/mutation certificate. Thus, a combined reading of item(a) and (b) under Clause 10(vii)(A) makes it abundantly clear that production of the records of rights or *porcha* was not mandatory.
53. In the present case, the private respondent produced his title deed, which would suffice both under items (a) and (b) of sub-clause(vii)(A). From the said deed, it is clear that the property was described to contain a constructed godown. As per the above clauses of the VN, the character of the land would have to be determined by the document produced by the applicant and not necessarily by the entries in the records of rights, the production of which was not mandatory.

54. In case of the private respondent no.6, he produced his title deed, which is a valid document under items (a) and (b), instead of producing his records of rights, which is also permitted by the aforesaid clauses. From the said deed, the character of the land is clearly shown to be a constructed godown, which comes within the purview of “Commercial/Bastu”.
55. Even Clause 32 of the relevant form in the 2013 Control Order, which was prevalent at the juncture of the VN, permits the character of the land to be anything else than Dokan/Commercial/Bastu, by introduction of the term “etc” as a suffix thereto.
56. As rightly contended by the Learned Senior Standing Counsel, the law applicable on the date of VN shall govern the selection process, as held by the Supreme Court in *Prakash Chand Meena’s case (supra)*², and since the recruitment process commences from the date of notification of vacancy and thereafter forms the foundational basis of the norms of the selection process, as reflected in *Tej Prakash Pathak (supra)*³, it is the 2013 Control Order and the VN which are to be looked into for ascertaining the validity of the applications. Thus, in view of the above discussions, private respondent no.6 was clearly eligible for issuance of FPS license.
57. A third contention was also sought to be raised by the appellant in her subsequent representation, although the same has not been pressed much here.

²***Prakash Chand Meena and Ors. v. State of Rajasthan and Ors. reported at (2015) 8 SCC 484***

³***Tej Prakash Pathak and Ors. v. High Court of Rajasthan and Ors. reported at (2025) 2 SCC 1***

58. However, for the sake of completeness, we choose to examine the veracity of the same as well, on the basis of the materials annexed to the writ petition and the pleadings in connection therewith.
59. It has been insinuated by the appellant that the son-in-law of the private respondent was an FPS dealer, which would render the private respondent ineligible under Clause 9(i) of the VN, which stipulates that a person holding a license of FPS dealer or distributor or wholesaler in his name or a person whose relative is an FPS dealer or distributor or wholesaler licensee will not be eligible to apply.
60. However, the respondent-Authorities have adverted to documents indicating the prior divorce obtained by the private respondent with his wife, which essentially severs the relationship of son-in-law with the other FPS dealer (the father of his ex-wife), much before the application being made by the private respondent. Thus, the private respondent also meets the said standard in the eligibility criteria.
61. Accordingly, this Court comes to the finding that whereas the appellant was not eligible under the existing norms, as evidenced by the VN as well as the Control Order of 2013, the private respondent was fully eligible for grant of license.

(ii) Whether the grant of licence to the private respondent prior to conclusion of the second inquiry on the appellant's representation vitiated the selection process due to mala fides.

62. This allegation of the appellant is not acceptable, since it is borne out by the records that merely an offer letter was given to the respondent prior to

the second inquiry report and the actual license in his favour was issued later.

63. However, such fact pales into insignificance due to the other aspect of the matter. In the earlier writ petition, the learned Single Judge had categorically observed, while directing a consideration of the representation of the appellant, that the respondent no.2/Principal Secretary shall pass a reasoned decision thereon“without being influenced by any later decision of the State-Authority for new appointment in respect of the same location”.
64. The above phrase makes it palpably clear that the State authority was free to take a later decision of a new appointment in respect of the same location (irrespective of the pendency of the inquiry on the appellant’s representation) even as per the observation of the learned Single Judge in the order disposing of the earlier writ petition. This observation, coupled with the fact that the specific prayer for stay of further proceedings for grant of license made by the appellant before the writcourt was deemed to be refused, renders untenable the appellant’s argument of *mala fides* or bias on such count.
65. The respondent authorities were, even as per the order of the WritCourt, free to proceed with further grant of license.Still, it only issued an offer letter to the private respondent and waited for the second inquiry report before granting the actual license in favour of the private respondent. Thus, the action of the respondent authorities cannot be construed to give rise to any *mala fide* or bias on such count.

(iii) Whether lack of opportunity of hearing and non-service of the second inquiry report on the appellant violates natural justice and, as such, vitiates the second inquiry report.

66. Before going into this issue, we have to keep in mind that the settled proposition of law is that the principles of natural justice cannot be stretched too far, as stressed in *H.C. Sarin's case (supra)*⁴ by the Hon'ble Supreme Court. In *St. John's College (supra)*⁵, it was further reiterated by the Supreme Court that natural justice is not an unruly horse that it can be overstretched to cover situations where it would obstruct legitimate administrative action, delay justice or frustrate public interest. There is no pleading in the writ petition of the appellant or the memorandum of appeal or application before us as to how the appellant was due to no opportunity of arguments being given to the appellant on the second inquiry report and no copy of the second report being given to the appellant.
67. The principles laid down in *Haryana Financial Corpn. (supra)*⁶ are germane in this regard, where it was held that the pleadings being silent as to prejudice, the allegation of non-supply was reduced to a mere technical plea which could not be sustained in the eye of law.
68. In fact, it is not a fact that the appellant was not given a hearing but no specific opportunity of filing a written reply was given, nor was any copy of the second report given.

⁴*H.C. Sarin v. Union of India and Ors. reported at (1976) 4 SCC 765*

⁵*Secretary/Correspondent St. John's College and Anr.v. Dr. S. Wilson and Ors. reported at (2020) 18 SCC 752*

⁶*Haryana Financial Corpn and Anr. v. Kailash Chandra Ahuja reported at (2008) 9 SCC 31*

69. However, the authorities have to be given some play in the joints in the matter of selection of eligible candidates to suit their purpose. It is completely within the domain of the authorities granting license to decide as to what would be the relevant criteria for eligibility, so long as the essential criteria stipulated in the VN are not violated.
70. In fact, the learned Single Judge merely directed the representation of the appellant to be considered by the authorities and no second inquiry was even directed to the held. As observed above, the second inquiry, in fact, was unnecessary and superfluous, since the *post facto* condition of the concerned property could not be a relevant criterion in determining as to whether the appellant was eligible on the date of the application and consequential first inquiry. The condition of the disputed property on a subsequent date could not operate retrospectively to validate an otherwise invalid application of the appellant.
71. Thus, we do not find any prejudice at all being caused to the appellate merely due to not getting a copy of the second report, or a full-fledged opportunity of arguments, which is only restricted to the domain of courts. Hence, this issue is also decided against the appellant and in favour of the respondents, holding that the non-service of the second inquiry report or opportunity of argument on it did not violate the principles of natural justice and/or vitiate the selection process at all.

(iv) Whether the appellant was castigated on grounds different from the charges levelled earlier

72. The appellant has alleged that although her application was initially rejected only on the ground of her godown being incomplete, the Principal Secretary cited additional grounds for rejection of her application in the final order, passed upon consideration of her representation as per the direction of the writ court.
73. Such allegation, however, is not totally correct. The primary allegation against the appellant was that the appellant did not have a complete godown, which violated the relevant provisions of Clause 8 of the VN. The said allegation remained the common refrain in both the initial rejection of the appellant's application for license as well as the subsequent adjudication on the representation of the appellant by the Principal Secretary. Thus, the primary ground on which the appellant was considered to be ineligible remained the same.
74. It should be borne in mind that the VN did not require the authorities to assign any reasons in writing for rejection of the application of any of the applicants. Thus, it cannot be strictly said that the initial rejection was only on the first ground and not on the second. However, giving the benefit of doubt to the appellant, we hereby consider the effect of addition of a new ground.
75. Even if we ignore the additional ground, that the appellant was not in possession of the land offered by her at the relevant juncture, the rejection of the appellant's application was justified on the first ground alone, thus

making it unnecessary to look into the second ground to justify such rejection.

76. It is also to be considered that the tests applicable at the selection stage are far less stringent than if the vested right of an existing licensee was being curtailed or taken away by cancellation of her license. In the present case, are not dealing with a departmental inquiry or a scenario where the vested rights of an existing employee or a licensee are being curtailed or taken away. At the selection stage, it would be absurd to import full-fledged procedural provisions befitting a regular suit or a departmental inquiry.
77. It was not a penal measure which was taken against the appellant or a vested right of the appellant that was taken away upon conducting a disciplinary proceeding or a departmental inquiry, but the appellant was merely held to be ineligible at the threshold, in the selection process itself. Thus, the concept of framing of charge or new charges being added cannot be imported in the present factual matrix at all. This view is based on the principle that a participant in a selection process does not have a vested right – either Constitutional or legal – to be selected or appointed as a licensee. It is for the appointing or licensing authority to select the candidates who are best in the perception of the authority, keeping in view its requirements, and not for the court to interfere at every stage at the drop of a hat.
78. In the instant case, the appellant has miserably failed to establish that the respondent-authorities did not adhere to the eligibility criteria given out in the VN and/or acted with *mala fides* or bias in any manner. The yardsticks

of selection were uniformly applied across the board for all candidates, by strictly adhering to the VN terms.

79. Moreover, as held earlier, even if we ignore the second ground, the appellant stood ineligible on the ground of having an incomplete godown on the date of not only her application but also on the date of the inquiry.
80. Thus, it is held that the above allegation of the appellant is not relevant for the present adjudication at all.

(v) Whether the writ petition was maintainable.

81. The objections as to maintainability raised by the respondents have two facets - *locus standi* of the appellant and scope of judicial review in a selection process.
82. The State cites *N.G. Projects Ltd. (supra)*⁷ as well as *Sonai Food Marketing (P) Ltd. (supra)*⁸ where the Supreme Court and this Court, respectively, held that if the challenger is otherwise ineligible in the selection process, he does not have the right to challenge the process in the first place on imaginary grievances or wounded pride or business rivalry or other like grounds.
83. Since the appellant was herself ineligible, as held above, for obtaining an FPS license on the criteria stipulated in the VN, the selection or non-selection of others would not in any way benefit her. Whether the private respondent or some other person was selected or none else was selected at

⁷***N.G. Projects Ltd. v. Vinod Kumar Jain and Ors. reported at (2022) 6 SCC 127***

⁸***Sonai Food Marketing (P) Ltd. v. Bipatarini Agency and Ors. reported at 2024 SCC OnLine Cal 3787***

all cannot matter to the appellant, in the sense that the appellant would not be benefited in any manner even if the private respondent's eligibility was negated. Hence, the writ petition ought to have failed on the ground of *locus standi* alone.

84. Insofar as the scope of judicial review in a selection process is concerned, going by the principles laid down by the Supreme Court in *Ratanpur, Biswasijubo (supra)*⁹, as well as *Md. Basir Ali (supra)*¹⁰, in case of selection processes, the scope of judicial review is limited. The appellant seeks to invoke the writ jurisdiction and thereafter the appellant jurisdiction of this Court, inviting us to enter into a re-appreciation of the materials before the selection authorities, which is not permissible in judicial review under Article 226 of the Constitution of India. The writ court is not a fact-finding forum and as such, it ought not to embark upon an elaborate appreciation of the evidence on record or enter into the domain of discretion enjoyed by the selection authorities. From such perspective as well, the writ petition ought to have failed.
85. The reliance of the appellant on *NutanKumari (supra)*¹¹ and *Vidarbha Irrigation Development Corpn. (supra)*¹² is misplaced, in view of our above observation that the VN itself did not render the private respondent ineligible merely because the character of the land was shown as a bamboo grove in the records.

⁹**SLP (c) No.6888 of 2025, (Ratanpur, Biswasijubo self-help group v M.M Enterprises).**

¹⁰**MAT No. 2084 of 2024 (Md. Basir Ali –V. M.M. Enterprise & Ors.**

¹¹**NutanKumari vs B.R.A. Bihar University and Others reported at 2023 SCC OnLine SC 1408**

¹²**Vidarbha Irrigation Development Corpn.And Ors v. Anoj Kumar AgarwalaandOrs.reported at (2020) 17 SCC 577.**

86. Taking into account our observations in respect of Issue No.3 above, we also hold that the principles laid down by the Supreme in *State Band of India (supra)*¹³ and *Mohd. Quaramuddin (supra)*¹⁴ are not applicable to the present case, although the violation of natural justice vitiating a process is a well-settled principle otherwise.
87. In terms of the findings rendered by us on Issue No.4 above, we also hold that the reliance of the appellant on *Narinder Mohan Arya (supra)*¹⁵ is not apt, since we are not looking at a scenario where a charge was framed and a penal action was taken against an employee or a licence holder, who would have vested rights, but are at the threshold stage of a selection process.
88. The tests applicable to the initial stage of the selection process are less stringent in favour of the selection authorities than if the license of an existing licensee was to be cancelled or penal action was to be taken against a licensee.

CONCLUSION

89. Going by the above principles and on the basis of the above discussions, we are of the considered opinion that the learned Single Judge rightly dismissed the writ petition of the appellant and there is no scope of interference in the present appeal.

¹³***State Band of India and Ors.v. D.C. Aggarwal and Anr. reported at (1993) 1 SCC 13***

¹⁴***Mohd.Quaramuddin v. State of A.P. reported at (1994) 5 SCC 118***

¹⁵***Narinder Mohan Arya v. United India Insurance Co. Ltd. and Ors. reported at (2006) 4 SCC 713***

90. Accordingly, MAT No.224 of 2025 is dismissed on contest, thereby affirming the impugned judgment dated February 17, 2025 passed in WPA No.2552 of 2025, dismissing the said writ petition.
91. Consequentially, CAN No.1 of 2025 also stands disposed of.
92. There will be no order as to costs.
93. Urgent certified server copies, if applied for, be issued to the parties upon compliance of due formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)