

ASR 1.
Ct. no. 24.
10.06.2025

WPA 6505 of 2025

**Md. Juddar Ali Sekh
Vs.
State of West Bengal & Ors.**

.

**Mr. Tulshi Das Ray
Mr. Tirthankar Ray**

...For the petitioner.

**Mr. Jayanta Samanta
Ms. Indumouli Banerjee**

...For the State

Petitioner challenged the selection of private respondent in respect of selection of FPS at Kapasdanga under GP Kapasdanga, P.S. Beldanga, District-Murshidabad. In short it is the challenged of the petitioner that the private respondent is not a suitable candidate to grand the license.

The petitioner has challenged the inspection of the respondent authority in respect of the proposed shop-cum-godown of the petitioner, wherein he has mentioned the plinth level of the proposed shop-cum-godown of the petitioner is '0', i.e. same to the ground level. It is the firm contention of the petitioner that the plinth level of the proposed shop-cum-godown of the petitioner is 2.5 feet higher than the adjacent from the road level.

Learned counsel for the petitioner further submits that the concerned authority has erroneously measured the plinth level of the proposed shop-cum-godown of the petitioner to be same as road level to contradict the report of the State authority, the petitioner has placed an exception, wherein the petitioner has placed some photographs along with a report of a Private Civil Engineer stating thereby the plinth level from road of the proposed shop-cum-godown is 2.5 feet.

Learned counsel for the petitioner further submits that the “shed area” of private respondent as measured by the respondent authority is in-correct. The shed of the private respondent cannot be 210 sq. feet. He submits that the respondent authority has selected private respondent purposively, the petitioner is the most suitable candidate so the order for issuance of license in favour of the private respondent is required to be set aside.

Mr. Jayanta Samanta, learned counsel appearing on behalf of the State submits that the State has submitted a report which contained the inspection report of both the petitioner and the private respondent.

The petitioner has signed the inspection report thereby certifying the report of the inspecting authority to be correct. The report shows the plinth level of the proposed shop-cum-godown of the petitioner is ‘0’, that

means, same as road level. The petitioner never raised any objection before the concerned authority regarding such so called erroneous measurement now after selection of private respondent, the instant writ petition is filed on such flimsy ground.

Mr. Samanta submits that there are some other grounds to disqualify the petitioner for granting such license. Thus, the decision of the authority for selection of the private respondent cannot be quashed.

Having heard the learned counsel for the parties, it appears that the concerned enquiring officer visited on 2nd June, 2024 the proposed shop-cum-godown of the petitioner and had taken measurement. At the time of making measurement they have measured the godown space, office space and shed space. In such report they have stated the plinth height of the petitioner is same as road level.

The petitioner contradicted the same and submits that the plinth measurement of the concerned officer is erroneous, to contradict such measurement the petitioner has placed a report of a Civil Engineer who measured the height of plinth level by using a measurement tape. The way of measurement by the Civil Engineer appears to be not convincing.

After going through the entire report of enquiry officers, it appears that the petitioner's candidature was not cancelled only for plinth level but due to the

negative recommendation of the inspector, which was placed at page 19 of the report of the State as follows :

“ Godown condition is more or less satisfactory but plinth height of the godown is just same as road or adjacent ground level. So it is not a ideal godown for safe storage of PDS food grains. Situated 1100 metre from central point of location and it is situated one of the corner of the projected area. As the applicant is ineligible by default system due to Point 52 c of Plinth Height, so the applicant is may not be recommended.”

It was reported by the inspector that the proposed shop-cum-godown of the petitioner is situated 1100 metre away from central point of location and it is situated one of the corner of the projected area. On the other hand, the shop-cum-godown of the private respondent is situated just beside the central point of location and also in the middle position of the projected service area.

In verifying the report regarding plinth level of the petitioner as depicted in the report of the enquiry officer as well as the report of the private Civil Engineer, it appears that the godown measurement, office measurement and shed measurement of the petitioner is quite similar of both the reports but only the plinth height is different. The way of measuring the plinth

height by the Civil Engineer by way of measurement tape appears to be a faulty one. The petitioner has never raised any objection before the authority concerned regarding erroneous measurement of the plinth level of the proposed shop-cum-godown by the enquiry officer, furthermore in the writ petition the petitioner has never awaited regarding such erroneous entry by the enquiry officer. However, it appears that the concerned authority as well as district level fair price shop selection committee has selected the private respondent who has got the height marks in the tabular marking system. Thus it is understood that the concerned authority has selected the private respondent as the most suitable candidate amongst all. The objection of the petitioner regarding erroneous taking of plinth level of the proposed shop-cum-godown of the present petitioner cannot be substantiated by any cogent evidence.

Under the above observation, I find no justification to entertain the petitioner in this case.

I make it clear that the concerned authority is the specified/specialized authority to select a candidate according to the provision of control order. In this case the authority concerned has selected the private respondent. There is no act of arbitrariness in the selection process.

I find no justification to disbelieve their opinion.

Under the above observation, the writ petition is dismissed and disposed of.

[Subhendu Samanta, J]