

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present: - Hon'ble Mr. Justice Subhendu Samanta.

IN THE MATTER OF
WPA 7814 of 2025
Ekbar Ali
Vs.
The State of West Bengal & Ors

For the Petitioners : **Mr. Partha Sarathi Bhattacharyya, Sr. Adv.,**
Mr. Raju Bhattacharyya, Adv.,

For the
Private respondent No 11 : **Mr. Niladri Shekhar Ghosh, Adv.,**
Mr. S. Alom, Adv

For the State : **Ms. Sonal Sinha, Adv.,**
Ms. Munmun Ganguly Adv.

Reserved on : **18.06.2025**

Judgment on : **26.06.2025**

Subhendu Samanta, J.

1. Petitioner applied for FPS License in terms of vacancy notification being No. – 343/SCF&S/ISP/ 2024 dated 10.05.2024 issued by SCFC Sub-Divisional Controller Food and Supply Islampur.

2. Petitioners application was accepted online, his proposed-shop-cum-godown was inspected. He was called is a personal interview after that the concern authority has selected private respondent and granted him license of the said FPS. By placing this writ petition, the petitioner has challenged the selection of private respondent on mainly two score:-

Firstly, petitioner's godown is far from the advised central location.

Secondly, there is existence of no road in front of the proposed shop-cum-godown of private respondent.

3. Mr. Parthasarathi Bhattacharya Ld. Senior Advocate appearing on behalf of the petitioner submits that private respondent is a blue eyed boy of the authority concerned thus, though there exists no motorable road in front of the godwon of private respondent, he was selected. It is the further contention of Mr. Bhattacharya, that the petitioner, in all respect is a suitable candidate to have the license. Petitioner has fulfilled all eligibility criteria as mentioned in the advertisement. Petitioner's proposed shop-cum-godown is much nearer to the central

location. Petitioner has suitable godown according to the notification and there is a wide metal road in front of the proposed shop-cum-godown of the petitioner by which vehicle carrying essential commodities may unload it in the godown of the petitioner. He further submits that the petitioners were not granted license by the authority which is arbitrary action of the authority. Learned Counsel for the petitioner further placed annexure P 3 of the writ petition to show that though there is a metal road which can approach the proposed shop-cum-godown of the petitioner but some portion of the metal road is Kacha road; which was ascertained from the reply of the concern block land and land reforms officer in a query of petitioner under RTI Act. He further submits that there is several complaint from the local villagers who raised objection to carry ration commodities over their personal road. The concerned SCFS has not considered their representations/objections but issued license in favour of private respondent.

4. Ms. Sonal Sinha Learned Counsel appearing on behalf of the respondent authority submits that the concerned Sub-Divisional Controller Food & supply has submitted a report in the

form of affidavit against the writ petition. Ms Sinha submits on perusal of the said report it would appear that the Sub-Divisional-Controller has placed the inspection report of both petitioner and private respondent in respect of their proposed shop-cum-godown, wherefrom it would appear that during enquiry total area petitioner's godown consisted of 517.14 Sqft. And area of sales counter was 260.04 Sqft the plinth height of the godown from the road level/ground level was 01 ft. 10 inch; whereas during enquiry it was found that area of godown of private respondent comprised 631.62 Sqft. And the area of sales counter was 246.44 Sqft the plinth height of the godown of private respondent from road level/ground level was 03Ft 05 Inch.

5. Ms. Sinha further submits that though the petitioner was found eligible for the said FPS but he is not most suitable candidate. The private respondent has received highest mark in terms of notification dated May 22, 2023 issued by the Government by making a score based selection procedure for FPS dealers. He further submits that by virtue of that notification a score sheet was prepared by the concern Department wherefrom

petitioner scored 75 out of total 100 marks whereas private respondent scored 80 marks. Being the most suitable candidate private respondent was selected for the license. It is further contended by Ms. Sinha that on the basis of complaint received from one applicant namely, Rukshana Khatoon regarding non-existence of road in front of the proposed-shop-cum-godown of the private respondent a report was called for by the Department from Revenue Inspector Domohona GP under BI&LRO Karandighi Revenue Inspector concerned after enquiry has submitted a report and it has been confirmed that there is an approach road (10Ft wide) which goes through plot No. 85 (godown of private respondent) accessible by vehicle.

6. Ms. Sinha further submits that as the private respondent having more spacious godown, she has been selected for the license; there is not arbitrary action on part of the respondent authority in selecting private respondent.

7. Learned Counsel appearing on behalf of the private respondent submits that respondent authority has scrutinised the application as well as inspected proposed shop cum-godown of private respondent. The authority concern has justifiably come

to an opinion that as private respondent having more spacious godown, thus, the private respondent was justifiably selected for the license.

8. She further submits that there is not arbitrary action on part of the respondent authority, so the instant writ petition is liable to be dismissed.

9. Mr. Bhattacharya in reply submits that as private respondent is a favoured person thus she got more marks than the petitioner. He further submits that the District Level Fair Price Shop Selection Committee has given 17 marks to the private respondent and 14 marks to the petitioner out of total 25 marks; there are no justification how more marks was awarded to the private respondent.

10. Having heard the Learned Counsel for the parties after perusing the pleadings as well as the documents placed there under it appears from enquiry report that private respondent having more spacious godown than petitioner. Both the petitioner and private respondent has got 10 marks for areas of godown the said mark was devised in the notification dated May 22, 2023.

Marks for truck unloading the private respondent scored 02 marks while petitioner scored 05 marks, for category of applicant private respondent being SC candidate scored 04 marks while petitioner scored 02 marks, on the point of plinth height of godown private respondent scored 05 marks but petitioner scored 02 marks. Thus on enquiry private respondent scored 63 marks but petitioner scored 61 marks.

11. Learned Senior Counsel appearing for the petitioner referred me the specific table of notification dated 22.05.2023 wherein in case of domicile, resident of the ward is entitled to 05 marks and non-resident of the ward is entitled to 02 marks. He submits that the private respondent is residing outside the village of central location so, in terms of the notification the petitioner being a resident of the village of the central location entitled to receive more 03 marks than the private respondent. On considering the same point it appears that the notification stated about the "resident of the ward" that means it is applicable for municipal area, Petitioner and the private respondents are applied for license in a village area. Thus the said clause of the notification is not applicable in this case.

So on considering the score sheet maintained by the SCFS after enquiry of proposed shop-cum-godown of petitioner as well as the other applicants I find no illegality or arbitrariness in awarding marks to the petitioners as well as the private respondent. Moreover petitioner was present at the time of enquiry and he signed the enquiry report. No objection was raised by the petitioner that the enquiry was conducted arbitrarily or mala fide manner.

This court has perused the report and the marks awarded by the concerned SCFS after enquiry. It appears from the notification dated 22.05.2023 that District Level Fair Price Shops Selection Committee comprising three members, have given authority to evaluate each and every eligible applicants on the basis of 25 marks to determine the suitability of a candidate from among the eligible applicants. The nature, ingredients, criteria to fix the suitability has not been mentioned in the notification itself. However it is the sole discretion of the selecting authority to award particular marks to a specific and suitable candidate.

In this case the private respondent having more spacious godown and plinth level of the godown from the road is higher

than the petitioner's godown. Whole purpose of selection of FPS dealer is the distribution of ration commodities to the beneficiaries. It is the only intention of the state to select more spacious godown where the food grains can be stored. In considering suitability of a godown it is obviously established a sole determination that if the more food grain can be stored in secured manner. To justify this suitability it is the domain of the fair price shop selection committee to assessed suitable candidate amongst the eligible applicants.

12. In this case the fair price shops Selection Committee has selected private respondent to be a suitable candidate by awarding more marks than the petitioner. The marking system of the notification denoted that every person having godown according to the specification in the notification has to be given 10 marks. Though, the private respondent having more spacious godown with a higher plinth level, she was given same mark as petitioner. In considering the same the District Level Fair Price Shop Selection Committee must have given more marks to the private respondent than the petitioner. District Level Fair Price Shop Selection Committee is a specialised authority of the State

Government who was designated to assess the suitability of candidates for giving license. They are the expert body having discretion to chose suitable candidate, their expertise cannot always put under scanner before writ court without glaring instances of arbitrariness. Thus, awarding more marks to private respondent is within fair discretion of this authority. Had District Level Fair Price Shop Selection Committee selected Petitioner that would have tantamount to be an arbitrary action.

However the authority concern has selected private respondent to be the most suitable candidate. I find no arbitrariness or mala fide action on part of the Selecting Authority in selecting private respondent.

I make it clear that this court is not an appellate authority to the decision of selecting authority. This court is only considering whether any arbitrariness or mala fide, nepotism or favouritism has been committed by the selecting authority in selecting private respondent. In this case after perusing the entire documents/reports I find no mala fide on part of the selecting authority. Merely proposed shop- cum- godown of the private respondent is away about 900 meters from the central of location

cannot itself be a ground to disentitle private respondent to get the license when there is specific report of concern BL&LRO that there is approach road in front of Proposed Shop-cum-Godown of the private respondent.

13. Under the above observation the instant writ petition appears to be meritorious and the same is hereby dismissed and disposed of.

14. Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)