

21.05.2025

Item No. 42

BM

Court No.24

WPA 10215 of 2025

+

IA No.: CAN 1 of 2025

Ashok Dey

Versus

State of West Bengal & Ors.

Mr. Prosenjit Mukherjee

Mr. Samrat Banerjee

Mr. Raja Roy

... for the petitioner

Mr. Swapan Dutta, Sr. Adv.

Mr. Rajat Dutta

... for the State

Mr. Debabrata Saha Ray, Sr. Adv.

Mr. Pingal Bhattacharyya

Mr. Subhankar Das

... for the private respondent

Mr. Suvro P. Lahiri

Mr. S. Chakraborty

... for the added respondent

1. The petitioner applied for licence of FPS in terms of new vacancy notification being Notification No.277/SCFS/BER/2019 dated 12.02.2019 issued by the Sub Divisional Controller, Berhampore, Sadar.

2. It is the contention of the petitioner that he made an application in terms of notification on 20th March, 2019. He submitted proposed fees through T.R Form No.7 to the Government of West Bengal amounting to Rs.1,000/- in terms of said notification. He also placed relevant documents required for the licence.

3. It is further contention of the petitioner that one of the applicant namely Arabindo Ghosh filed a writ petition vide WPA No.22567 of 2022 challenging the act and action of the respondent authority wherein a co-

ordinate Bench of this court vide an order dated 1st December, 2022 has passed an interim order to the effect that :-

“ The respondent shall not take any adverse steps in this regard till 23.12.2022”

4. It is the contention of the petitioner that the order of the Co-ordinate Bench was affirmed by further order dated 3rd August, 2023 passed by another co-ordinate Bench in the same writ petition.

5. It is further contention of the writ petitioner that the same issue in the writ petition was raised before the Hon'ble Division Bench in MAT 1543 of 2024, where the Hon'ble Division Bench vide its order dated 6th August, 2024 has passed an interim order specifically at paragraph 10 of the writ petition as follows :-

“ We direct none of the ration card holders shall be delinked from the dealers and the dealers shall not be delinked from the distributors if not already done for a period of two weeks from date or until further orders, whichever is earlier.”

6. It is the submission of the learned counsel for the petitioner that in spite of interim order passed by Co-ordinate Bench of this court as well as the Division Bench of this court, the respondent authority has issued licence in favour of the private respondent on 21st April, 2025. Thus, he challenges the issuance of licence in favour of the private respondent.

7. Learned counsel appearing on behalf of the private respondent raised strong objection on preliminary point. He submits that notification No.277/SCFS/BER/2019 dated 12.02.2019 wherein the present petitioner applied for licence has been cancelled by the order of the Government and in that place a new vacancy notification being No.591/SCFS/BER/2022 dated 11.05.2022 has been published. The private respondent applied for vacancy in terms of the said new notification dated 11th May, 2022 and he being a successful candidate, has been selected.

8. Learned senior counsel appearing on behalf of the private respondent further submits that the writ petition is misconceived and not maintainable.

9. Having heard the learned counsel for the parties, it appears that the present petitioner challenge the selection of the private respondent on the ground that this court as well as Hon'ble Division Bench has passed an order of stay, but the State authority has violated the order and issued licence in favour of the private respondent.

10. It appears that the petitioner has not applied for licence in respect of the notification being No.591/SCFS/BER/2022 dated 11.05.2022.

11. Thus, the present petitioner being an applicant for the impugned vacancy notification dated 11.05.2022, cannot seek relief before the constitutional Bench in a

writ petition. Furthermore, it appears that the petitioner has applied for licence by furnishing a statutory fees of Rs.1,000/- for selection in terms of earlier notification dated No.277/SCFS/BER/2019 dated 12.02.2019 which has been cancelled. The fees as submitted by the present petitioner with the Government is only for the purpose of proceeding the selection process.

12. The petitioner has not demonstrated any reason as to whether the fees are refundable or not. Under the above observation, I find no justification to entertain the petitioner.

13. Accordingly, instant writ petition appears to be not maintainable and the same is hereby dismissed.

14. Since, the writ petition is dismissed, the application for addition of parties being IA No.:CAN 1 of 2025 is also dismissed and disposed of.

15. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)