

04.04.2025
SL No.19
Court No.24
Ali

**WPA 11229 of 2024
With
IA No.:CAN 1/2025**

**Renjuma Khatun
Versus
The State of West Bengal & Ors.**

Mr. S.P. Lahiri,
Md. Habibur Rahaman,
Mr. Rajesh Naskar,
Mr. Ankan Mondal

..... for the petitioner.

Mr. Supratim Dhar, Sr. Adv.
Mr. Ritesh Kumar Ganguly

.... for the State.

Petitioner applied for licence in terms of a Notification issued by the Sub-Divisional Controller, Food and Supplies, Vide Memo No. 1012/SCFS/ISP/2022 dated 18th of October, 2022. After submission of her application her proposed Shop-Cum-Godown was inspected. During inspection she produced all the land documents and particulars there under.

It is the case of the petitioner that the concerned authority during the course of inspection has seen the record of right of the land wherein proposed Shop-Cum-Godown was situated i.e. Plot No. 320 and 321 which was recorded as "Sarak".

The State authority found none of the applicants eligible thus they issue a new notification in respect of the said location Vide Memo No. 323/SCFS/ISP/2024 dated 9th of May, 2024.

The petitioner approached this Court only on the ground that the record of right in respect of Plots wherein the proposed Shop-Cum-Godown was situated was erroneously recorded as "Sarak" though all along the same Plots of land are recorded as "Bastu".

It is the further case of the petitioner that she approached the concerned authority is a specific Misc. Case wherein the mistake was revealed by the concerned Block Land and Land Reforms Officer and erroneous recoding regarding "Sarak" was rectified to "Bastu".

It is the contention of the petitioner that he is the most suitable candidate for getting the licence so the State authority may be directed to issue licence in her favour.

Learned counsel appearing on behalf of the respondent authority used Affidavit-in-Opposition against the writ petition. Along with the affidavit they have placed the enquiry report conducted by the concerned officer as well as new vacancy notifications. A specific argument was made by the

learned counsel appearing on behalf of the State respondent that according to the provisions of Part-5 (iv) of the said Vacancy Notification. It has been enumerated that:

"iv) Any suppression of fact/information or incorporation/providing of wrong information in the application form or attached documents will be considered as a good and justifiable reason for disqualification for a candidate or rejection of application and taking appropriate legal action".

It is the stand of the State authority that the petitioner was well aware about the erroneous recording of the land but he suppressed the fact before the concerned officer who conducting inspection, that she had initiated a proceeding before BL&LRO concerned for correction of record of right.

It is the contention of the State respondent that materials fact has been suppressed thus on the sole ground the present petitioner is not at all eligible to get the licence.

Heard the learned counsel; perused the entire facts including the pleadings, documents, Affidavit-in-Opposition and reply thereon.

It appears that the only sole ground for rejection of candidature of the petitioner is that the land where the petitioner constructed the Godown is recorded as "Sarak"

It is the case of the respondent authority that the petitioner has suppressed the materials facts regarding her approach to concern BL&LRO for correcting the said record of right.

It is true that during the inspection the inspecting officer has reached the spot wherein the proposed Shop-Cum-Godown was constructed. The officer has noted the area of the Godown and the character of Land of the premises was recorded as "Sarak".

It further appears that all the Deeds and documents were placed before the Inspector at the time of inspection who checked all the documents. The Deed pertaining to the Plot No. 320 and 321 is mentioned the nature of the land as "Bastu".

It is the admitted fact that there are some erroneous recording of the Land as "Sarak". Ultimately, the petitioner has not suppressed anything before the enquiring officer but she placed all the documents including the erroneously record of right.

It appears further that the enquiry was conducted on 11th of April, 2023 though the petitioner has approached before the concerned authority for correction of record of right on 1st of March, 2003, but, ultimately the final order was

passed on 4th of October, 2023 i.e. after the inspection has already concluded.

So, at this juncture, it appears that the petitioner might have nothing to demonstrate before the enquiring officer to show that the recording was erroneous. Accordingly, she placed erroneous record of right; if the petitioner was so clever to conceal about the fact she must not have placed the erroneous record of right before the enquiring officer. The approach of the petitioner shows her fairness.

Considering the entire aspects, it appears from the order of the concerned BL&LRO, Chopra, Uttar Dinajpur that recording of L.R. Plot No. 320 corresponding to R.S. Plot No. 306 measuring an area of 0.05 acres and L.R. Plot No. 321 corresponding to R.S. Plot No. 307 measuring an area of 0.03 acres is "Bastu" not "Sarak".

Thus the observation of the concerned authority regarding cancellation of the candidature of petitioner required to be reviewed on the relevant facts and circumstances.

Under the above observation, I find justification to entertain the writ. Accordingly, the instant writ petition is considered and allowed.

Concerned authority is directed to review their stand in respect of allowing the petitioner to

be a licensee in respect of Vacancy Notification dated 18th October, 2022 in the changed facts and circumstances as mentioned hereinabove.

The petitioner is directed to approach the concerned authority within two weeks from the date of passing of this order with a copy of this order along with a specific representation with all documents.

The concerned authority shall dispose of his representation and shall issue the licence in favour of the petitioner, if she otherwise appears to be suitable according to the provisions of law. The decision of the authority shall be arrived at within six weeks from the date of communication of this order after giving a reasonable opportunity of being heard to the petitioner.

The authority must not confine/confused themselves in mere point of limitation or other technical points, but they shall act according to the true letter and spirit of order of this Court. The decision of the authority shall be communicated to the petitioner within two weeks thereafter.

Subsequent, Notification dated 9th of May, 2024 issued by the concerned SCFS which was stayed by this Court during the pendency of the instant writ petition be made final.

The State authority shall not proceed to the said Notification (09.05.2024) till their reasoned decision as directed hereinabove.

Under the above observations, the writ petition being **WPA 11229 of 2024** is disposed of.

All connected CAN applications, if pending, are also disposed of.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)