

11.8. 2025
item No.68
n.b.
ct. no. 24

WPA 12546 of 2025

Ujjal Paul

Vs.

The State of West Bengal & Ors.

Mr. Ramesh Dhara,

..... for the petitioner.

Ms. Munnun Ganguly,

Mr. Sayan Ganguly,

..... for the State respondent.

Affidavit-in-opposition filed on behalf of the State respondent be taken on record.

Affidavit-in-reply on behalf of the petitioner be also taken on record.

Petitioner applied for licence of FPS in terms of notification dated 15.5.2024 issued by the SCFS, Kalyani. After complying with all formalities, the application of the petitioner was rejected on the ground that as per lease deed, the proposed shop cum godown of the petitioner is situated over a building, which can only use for residential purpose. Thus, it is the view of the State that the property is not suitable for running FPS.

The petitioner has challenged the decision of the authority on the ground that the said residential house has already been converted for commercial purpose by an order of the Kalyani Municipality. He placed the document with the concerned SCFS before cancellation

of his candidature, such representation/letter dated May 7, 2025 of the petitioner was not considered.

It is the contention of the petitioner that the petitioner's candidature was wrongfully and malafidely rejected by the authority. So, he prayed for necessary order of mandamus upon the respondent authority.

State authority has challenged the writ petition by filing an affidavit-in-opposition.

It is the contention of the State authority that in terms of the vacancy, the petitioner has applied for licence showing proposed godown location at A/7 145, Ward No.13, Vill-Kalyani, P.O. Kalyani, P.S. Kalyani, District. Nadia. On perusal of the lease agreement, in respect of the above mentioned godown location, it appears that a lease was executed between the Government of West Bengal and father of the petitioner dated March 7, 1995. In the said agreement, clause 4 has inter alia stipulated that "to erect, construct and complete buildings for being use for residential purposes." Clause 10 of the said lease agreement further stipulates "Not without the previous consent in writing of the Government to use or permit the use of the building or build that may during the said terms be erected on the demise land for any purpose other than residential purpose".

Learned counsel for the State authority submits that this being the stipulation in the deed itself. It is not

possible for the authority concerned to allow the petitioner to run FPS business over the said residential building. It is further contention that concerned State authority after careful consideration of the lease deed has rightly rejected the candidature of the petitioner.

Having heard learned counsel for the parties and considering the lease deed executed between the father of the petitioner and the Government of West Bengal, it is true that without permission of the State authority, the building cannot be used for commercial purpose. However, the petitioner has placed a document wherein it appears that the necessary permission has already been obtained by the petitioner to use the said building as commercial purpose, which he has placed with the authority through a letter dated May 7, 2025. It appears that the concerned authority has not considered this document before taking the appropriate decision.

At this juncture, I think the matter should be relegated to the concerned Director, DDPS, being the respondent no.3 of the instant writ petition to reconsider the candidature of the petitioner in terms of the letter dated May 7, 2025 along with document of conversion issued by the Kalyani Municipality.

I make it clear that State has already reported the earlier vacancy was rejected due to ineligibility of any candidate and new vacancy has been renotified, but it appears that if the candidature of the petitioner appears

to be fulfilled all the criterion, it is not necessary to take all re-course to re-invited the vacancy again. On the same observation, the steps taken by the respondent authority regarding re-notification of vacancy be hereby stalled till the decision be taken in respect of the candidature of the present petitioner in terms of the document issued by the Kalyani Municipality in his favour.

Under the above observation, the instant writ petition is disposed of with a direction to the petitioner to submit a detailed coupled with the document as mentioned hereinabove to the respondent no.3 within two weeks from the date of passing of this order. On such representation, the respondent no.3 shall dispose of the of the representation according to law, after giving a reasonable opportunity of being heard to the petitioner within six weeks from the date of receiving of such representation.

The decision of the authority should be communicated to the petitioner within two weeks thereafter.

I make it clear that this Court have not gone into the merit of this matter, the respondent no.3 shall dispose of the representation according to law without being influenced by any observation of this Court.

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

(Subhendu Samanta, J.)