

09.9. 2025
item No.47
n.b.
ct. no. 24

WPA 17293 of 2025

Md. Sayid Afridi

Vs.

State of West Bengal & Ors.

Mr. Debabrata Saha Roy,
Mr. Pingal Bhattaharyya,
Mr. Sankha Biswas,

..... for the petitioner.

Mr. Swapan Kr. Datta,
Mr. Dipankar Das,

..... for the State respondent.

Mr. Ram Anand Agarwala,
Ms. Nibedita Pal,
Mr. Ananda Gopal Mukherjee,
Ms. Sonam Ray,
Ms. Nasrin Kharoon,

..... for the private respondent.

Petitioner applied for FPS licence in terms of
vacancy notification dated 16.5.2024.

It is the contention of the petitioner that he is
most suitable candidate and his proposed shop cum
godown was inspected on 31. 12.2024, wherein after
inspection a copy of the report has been served upon the
petitioner. He submits that he was called for personal
interview by the concerned District Fair Price Selection
Committee on July 11, 2025. He appeared there. It is
the positive fact of the petitioner that during the course
of interview Additional District Magistrate(General)
intimated the petitioner that candidature of the
petitioner cannot be considered as an eligible candidate,

since on the date of application the land was not classified as either 'Bastu' or 'Commercial' or 'Dokan'.

It is further case of the petitioner that the candidature of the private respondent was considered to be an eligible candidate, though private respondent is civic volunteer. It is the contention of the petitioner that Additional District Magistrate(General) in an arbitral, unfair and unjust manner rejected the candidature of the petitioner and selection the private respondent no.6 for grant of FPS licence hence, prayer has been made before this Court for issuance of mandamus upon the respondent authority to withdraw the decision rejecting the candidature of the petitioner for grant of FPS licence and also to withdraw the decision of selection of the private respondent no.6 for grant of FPS licence against the impugned vacancy notification.

Mr. Debabrata Saha Roy, learned senior counsel appearing on behalf of the petitioner placed on record the copy of the enquiry report, which was handed over to the petitioner after enquiry, which indicated character of the land, as 'Bastu'. He placed on record necessary conversion certificate issued by the concerned Land and Land Reforms Officer on December 30, 2024 i.e. prior to the date of inspection when the land of the petitioner was converted from "Aush" to "Viti".

It is further contention of the petitioner that the private respondent is working as civic volunteer, who is

holding government post, thus, the candidature of the private respondent cannot be considered to be fit person to provide licence of FPS.

Mr. Swapan Kumar Datta, learned AGP appearing on behalf of the State respondent submits that the instant writ petition is premature one. No decision has yet been taken by the concerned selecting authority regarding selection of any person in the impugned vacancy notification. He has frankly submits that the name of the private respondent was forwarded to the upper authority and decision of the upper authority is yet to be obtained. He further submits there are no order of the appointing authority to reject the candidature of the petitioner. Thus, the instant writ petition is infructuous and also there is no cause of action to file the instant writ petition.

Mr. Agarwal, learned senior counsel appearing on behalf of the private respondent submits that the selection of private respondent is yet to be settled by the authority. Thus, the petitioner cannot challenge any decision of the state respondent. He further submits that admittedly on the day of filing the application, the land in question of the petitioner was not "Dokan" or "Bastu" though, it was subsequently converted to 'Bastu'. He further submits that the instant writ petition is premature one and the same is required to be rejected.

In reply, Mr. Saha Ray place on record a decision of Hon'ble Division Bench passed in MAT 1300 of 2025 wherein he placed the relevant paragraph 38 of the said decision which reads as follows:

“38. Hence, from a composite reading of all the provisions of Clause 10 of the vacancy notification, we find that the production of the records of rights is entirely optional and if any document is produced showing the Nature and character of the land, it would suffice for getting a licence. Rather, in the case of a leased out property, there is no requirement even to produce the extracts of the records of rights as an option. The only document required is a registered/notarized lease deed which may describe the character of the property, which was duly produced in the present case.”

Having heard learned counsel for the parties and also considering the observation of Hon'ble Division Bench of this Court in MAT 1300 of 2025 it appears that the Hon'ble Division Bench has unequivocally made it clear that at the time of filing application for FPS licence, the requirement to file the document to prove the character of land is either record of right or registered /notarized lease deed. It has been observed by the Hon'ble Division Bench that filing of record of right at the time of application for vacancy is not mandatory.

In the present case, the petitioner challenged a decision of the authority regarding rejection of his candidature. In paragraph 17 of the writ petition, the petitioner has disclosed the fact that during the course of interview, he came to know regarding the decision from one of the member of the Interview Board i.e Additional District Magistrate(General), who intimated

the petitioner regarding the decision of the authority. However, this pleading was made in the writ petition in paragraph 17 and 18. No connecting document was placed on record regarding the decision of the authority. However, Mr. Dutta, learned AGP appearing on behalf of the State respondent submits that the State is yet to take a decision in respect of vacancy notification. Hence, the fact of disclosure of decision by ADM(G) regarding result of notification, has no corroborative document thus, it is difficult to believe the truthness of such fact.

It further appears to me that copy of inspection report was handed over to the petitioner wherefrom it appears that petitioner having sufficient godown and shop room as per notification. However, the authority concerned has to select most suitable candidate. I find no document on record regarding decision of respondent authority to justify the prayer of the petitioner that his candidature was rejected or private respondent was selected.

On that score, I cannot accept the submission of the learned senior counsel appearing on behalf of the petitioner that decision has already been taken by the State respondent in this matter. Moreover, civic volunteer under police administration is not a civil post. These are no statutory recognition of civic volunteers. This issue has already been settled by a coordinate bench in WPA 9698 of 2022. This Court has also adopted the

same view in several matters. Hence, I find no merit in the objections raised by Mr. Saha Ray.

The instant writ petition appears premature as there is no such cause of action to entertain by this writ court.

Accordingly, the instant writ petition appears not meritorious and the same is hereby dismissed.

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

(Subhendu Samanta, J.)