

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA  
Civil Appellate Jurisdiction  
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya  
&  
The Hon'ble Mr. Justice Uday Kumar

MAT 1359 of 2025  
With  
CAN 1 of 2025  
With  
CAN 2 of 2025

Sukanta Chanak  
Vs.  
Subrata Ghosh and Ors.

|                          |   |                                                                            |
|--------------------------|---|----------------------------------------------------------------------------|
| For the appellant        | : | Mr. Sabyasachi Chatterjee,<br>Mr. Pintu Kanrar, Advs.                      |
| For the respondent no. 1 | : | Mr. Debabrata Saha Roy,<br>Mr. Debabrata Chakrabarti,<br>Mr. Subhankar Das |
| For the State respondent | : | Ms. Sonal Sinha, Ld. AGP,<br>Ms. Munmun Ganguly, Adv.                      |
| Heard on                 | : | September 9, 2025.                                                         |
| Judgment on              | : | September 9, 2025.                                                         |

**Sabyasachi Bhattacharyya, J.:**

1. Heard learned counsel for the appellant, the private respondent and the State.

2. The present challenge has been preferred against an order of the learned Single Judge, whereby the writ petition filed by the private respondent was allowed. The private respondent claimed in the writ petition that despite issuance of an FPS license on the basis of a vacancy notification dated May 29, 2024, the concerned authority had not made any allotment in favour of the writ petitioner/private respondent. Within the limited conspectus of such writ petition, the learned Single Judge ultimately held that it is true that the license has been issued in terms of the vacancy notification in favour of the writ petitioner and the writ petitioner has deposited the entire requisite fees to run the license.
3. It was further observed that it appeared from the case history that the writ petitioner's business was stalled due to some complaint. However, the entire enquiry was done and the matter had been placed before the higher authority and as such, the writ court directed the department to take appropriate steps promptly so that the writ petitioner/private respondent may run the business.

4. Learned senior counsel appearing for the private respondent, at the outset, points out that such order has been implemented and the private respondent is running his business now.
5. Learned counsel for the petitioner, in support of the application for leave to prefer the appeal, submits that despite the grant of allotment in favour of the private respondent being stalled due to the complaint lodged by the present appellant, the present appellant was not impleaded in the writ petition. However, the appellant was represented by counsel at the hearing of the writ petition, although wrongly recorded in the impugned order as an added respondent.
6. Be that as it may, it is submitted that the present appellant is directly affected by the impugned order, since there was a pending writ petition at the behest of the present appellant at the juncture when the impugned order was passed, challenging the issuance of license to the private respondent itself.
7. Thus, in the event such writ petition succeeds, it is submitted that a valuable right would accrue in favour of the present appellant. As such, the appellant ought to be granted leave to prefer the present appeal.

8. Learned counsel for the appellant also seeks to address the court on the merits of the appeal. However, this court does not entertain such arguments at this stage prior to adjudication of the leave application.
9. Learned senior counsel appearing for the private respondent refutes the contentions of the appellant and submits that the appellant does not have any *locus standi* to challenge the impugned order on several counts.
10. First, it is submitted that even the other writ petition filed by the present appellant is not maintainable, since the appellant himself was held to be ineligible in the process of selection for the purpose of issuance of FPS license. Himself being ineligible, the appellant does not have the *locus standi* to prefer the appeal or the other writ petition.
11. It is further submitted that the issuance of license to the private respondent was not even the subject matter of the writ petition. Moreover, by the impugned order, the learned Single Judge has merely directed the authorities to take steps for expediting the complaints and disputes pending before the higher authority. As such, the appeal itself ought not to be maintainable as well.

12. Upon hearing learned counsel for the parties, we are unable to accede to the prayer of the appellant for leave to prefer the appeal for the following reasons:-

- (i) The appellant himself, being an unsuccessful participant in the process of selection of FPS dealer/applicants, does not have the *locus standi* to challenge the impugned order.
- (ii) Secondly, the limited scope of the writ petition was non-allotment of the plot pursuant to the license already granted in favour of the writ petitioner / private respondent, where the impugned order merely observed that on the strength of the license already issued in favour of the private respondent, allotment was not being given to the private respondent, in which context the writ court directed the higher authorities to expedite the adjudication on the complaint which was holding up such allotment being given to the writ petitioner/private respondent. Thus, there was no manner of challenge to the issuance of license to the private respondent itself within the four corners of the writ petition. The very premise of the *locus standi* claimed by the present appellant is the challenge to the issuance of license, which was not even the subject matter of the writ petition from which the present appeal arises. Thus, on

such count as well, the present appellant does not have any *locus standi* to prefer the present appeal, being an outsider to the subject matter of the writ.

13. In any event, since the appellant submits that the appellant has an independent writ petition challenging the issuance of license itself, the merits of the same will be decided independently by the writ court upon giving opportunity to both sides to present their respective cases, including the challenge of the private respondent to the *locus standi* of the appellant on the ground of ineligibility. It would be premature for this court, sitting in appeal at this stage, to comment on the outcome of the said independent writ petition. At best, we can observe that the findings rendered by this court shall not be construed to affect adversely the rights and contentions of the parties in the pending other writ petition.
14. We make it abundantly clear that all questions, including the alleged ineligibility / *locus standi* of the appellant in the other writ petition, shall be kept open for being decided independently in the said writ petition without being influenced in any manner by any of the observations made above.

15. In view of the above observations, CAN 1 of 2025 is rejected, refusing leave to the appellant to prefer the present appeal.
16. Consequentially, MAT 1359 of 2025 is dismissed as not maintainable without any order as to costs.
17. CAN 2 of 2025 is also disposed of consequentially.
18. The parties shall act on the server copy of this order, duly downloaded from the official website of this court.

I agree.

**(Sabyasachi Bhattacharyya, J.)**

**(Uday Kumar, J.)**