

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present: - Hon'ble Mr. Justice Subhendu Samanta.

IN THE MATTER OF

WPA 26862 of 2023

Md. Samim

Vs.

State of West Bengal & ors

For the Petitioners : **Mr. Nilanjana Adhya, Adv.,**
Md. Maznu Ahmed, Adv.,

For the State : **Mr. M.T.M Siddiqui, Ld. AGP,**
Mr. Amrita lal Chatterjee Adv.

Reserved on : **10.06.2025**

Judgment on : **03.09.2025**

Subhendu Samanta, J.

1. Petitioner challenged the action of the respondent authority regarding delivery of FPS dealership license in favour of Respondent 10 and for consideration of his representation dated 6th November, 2023.
2. The brief fact of the matter is that petitioner as well as the private respondents were applied for FPS license in terms of vacancy notification dated 7th January, 2022 issued by SCF&S Chanchol.
3. The authority concern has selected private respondent, the petitioner challenged the selection of the private respondent by filing a writ petition being No. WP 19293/2023. A Co-ordinate

Bench of this court vide its judgment dated 17.08.2023 disposed of the writ petition directing the authority concern to consider representation of the petitioner dated 28th April 2023 and to pass a reasoned order. In pursuance to such direction the authority concern has heard petitioner and passed a reasoned order on 14th September 2023 whereby respondent authorities are of opinion that petitioner is not eligible for FPS license, he failed to comply with required criteria of having office space 20 SqFt. But private respondent has fulfilled all criterias for being engaged FPS dealer in respect of instant vacancy, allegation brought against private respondent appear to them as motivated and not through.

4. The petitioner has not challenged the reasoned order but again filed the instant writ petition on several other grounds challenging action of State for issuance of license in favour of respondent No. 10.
5. Learned Counsel for the petitioner submits that the document of possession which was shown by the private respondent that is the lease deed, if properly considered, it would be revealed that the lesser of the said lease deed had no sufficient area, he submits the lesser of the lease deed has leased out a particular area in favour of the private respondent but private respondent has constructed godown which was shown to be more area that it was leased out.
6. He submits that approach road to the godown of the private respondent is also narrow and not fit to carry the ration articles.

He further submits that the size of attached to show room of the private respondent is not according to notification. It is the contention of the petitioner that the petitioner has filed a detail representation through e-mail to the authority on 6th November 2023 regarding the entire materials but the authority concern has not considered the representation.

7. Hence this writ.
8. Learned Counsel for the petitioner further submits that the petitioner has erroneously shown the godown beyond the area which was leased out in his favour. He further submits that the authority concern has favoured the private respondent. Hence the license granted in favour of the private respondent is required to be cancelled.
9. Learned Counsel appearing on behalf of the private respondent submits that the allegation in the writ petition is false and concocted.
10. He further submits that the area which was leased out to the private respondent is sufficient to construct the godwon. He further submits that moreover, at the time of inspection the concerned Inspector has noted area of the godown. At this juncture the present petitioner can not raised a new ground to challenge the license.
11. State respondent used a report in the form of affidavit against writ petition and submits that the authority concern has very categorically considered the document placed by the petitioner as well as the respondent No. 10. After thorough enquiry it

appears that the petitioner's godown is not suitable for storage of food grains, the area proposed sales counter was less than the vacancy notification. Moreover, the applicant petitioner did not submit affidavit shown before the Magistrate as per annexure 1. The concerned inspector also reported in respect of the respondent No. 10 that she fulfilled all eligible criteria for engagement of FPS license. The respondent authority has also placed enquiry report with a score based system wherein the private respondent has scored 74 marks, when the petitioner has scored only 68 marks. Learned Counsel in the state respondent further submits that the petitioner has no cogent ground to entertain, time and again he appeared before this court challenging the license issued in favour the private respondent.

12. Having heard the Learned Counsel for the parties, it appears that the area mentioned in the lease deed of the private respondent is 650 SQ.FT. The enquiry report in respect of proposed shop-cum-godown of private respondent mentioned in point No. 50 of such report wherefrom it appears that the area of storage godwn of private respondent is 425 and the size of sales counter is 209 Sq.Ft. after adducing two areas, the total area comes to 634 Sq.Ft. Thus it appears that the storage godown and the shop room was constructed within the leased out property in favour of the private respondent. Thus the allegation as raised by the petitioner in the instant writ petition is not tenable

13. It further appears that the petitioner had initially approached this court, wherein a co-ordinate bench has directed the authority concern to consider the representation and objections of the petitioner. It appears from the reasoned order dated 14th September, 2023 that the authority concern has properly dealt with issues and has observed that allegation of the petitioner is motivated. Petitioner did not challenge the reasoned order, but filed this writ petition with other new grounds. According to the previous of Order II Rule 2 CPC, Petitioner time and again cannot challenge some license of private respondent with numerous grounds; according to the provision, the petitioner had to challenge or to file a suit in respect of all available grounds. If a party wants to raise some grounds later, they must obtain a leave from Court. Thus it appears to me that the challenge of the petitioner against the state action regarding issuance of license in favour of the respondent No. 10 appears to me not legally tenable and this court find nothing to entertain.
14. Under the above observation, this writ petition is dismissed and disposed of.
15. Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)