

13.01.2025
SL No.16
Court No.24
Ali

WPA 27560 of 2023

**Runa Laila
Versus
The State of West Bengal & Ors.**

Mr. Mahamudul Hassan
.....for the petitioner.

Ms. Sonal Sinha,
Mr. Avishek Prasad
..... for the State.

Mr. Pingal Bhattacharyya,
Mr. Amrita Lal Chatterjee
.....for the respondent No. 8.

The instant writ petition is preferred challenging the selection of private respondent No. 8 by the respondent authority in terms of notification being memo No. 624/SCF&S/BST/MR/2022 dated 25.04.2022 in respect of filling up vacancy of Fair Price Shop (FPS) Dealership for the location at Village Kumruli, Kumruli of Mouza Birampur Kamaruli, under Champatala Gram Panchayat of Deganga P.S., District 24-Pargana (North).

It is the case of the petitioner that he, respondent No. 8 and other candidates have filed for the licence in terms of the said application. The concerned authority has conducted enquiry over the proposed shop-cum-godown of the petitioner as well as the private respondent and after the enquiry the concerned authority has selected the private respondent No. 8 to be the suitable candidate.

Petitioner challenges the selection of private respondent No. 8 on several grounds:-

Firstly-The private respondent No. 8 had no godown at the vacancy location.

Secondly:-Private respondent No. 8 was a Panchayat Member so he is not entitled to be selected as a FPS licence holder.

Thirdly:- A Criminal case was pending against him but during filing affidavit the private respondent has deposed that no criminal case is pending.

It is the allegation of the learned counsel for the petitioner against the respondent that till today respondents has no godown over the vacancy location. The location as shown by the private respondent to the enquiring inspectors is a homestead of different persons which cannot be considered to be a godwon or shop of FPS Dealer.

It is the positive fact of the State authority that petitioner has not fulfilled all required criteria to be engaged as a FPS dealer. Hence, her application has not considered and recommended.

It is the further fact of the State authority that proposed godown-cum-shop room of the petitioner is located at Kumruli rail gate, PO Hadipur, P.S. Deganga and office space is 148.5 Sq.ft, which is less than 200 Sq.ft. as required for

the vacancy notification dated 25.04.2022. Moreover, the proposed shop-cum-godown of the petitioner was not fully constructed on the date of enquiry. The state is also pleaded in the report that the petitioner was not financially solvent on 14.10.2022 i.e. on the date of application, he had only Rs. 1,008/- in her Savings Bank Account maintained by SBI, Haroa Branch.

It is the further case of the State authority that on the day of enquiry they have also inspected the shop-cum-godown of the private respondent. It appeared during inspection that the shop-cum-godown of the private respondent is within the vacancy location and the area of shop-cum-godown of the private respondent according to the specification of the vacancy notification dated 25.04.2022.

It is the further case of the State authority that at the time of filing the application for vacancy the private respondent was not a member Gram Panchayat. Thereafter, Panchayat election was held on July 2023 and the private respondent was elected. However, the private respondent tendered his resignation before the concerned authority from his membership as a member of Deganga Panchayat Samity. His resignation was accepted by the concerned authority and after acceptance of the

resignation the licence was issued in favour of the private respondent.

The learned counsel appearing on behalf of the private respondent submits that the present petitioner has no locus standi to file the writ petition. It is the positive argument of the private respondent that the petitioner has not fulfilled the eligible criteria to be selected as a FPS Dealer. He submits that the proposed shop-room is required to be made not less than 200 Sq.ft. but the proposed shop room of the petitioner is 148.5 Sq.ft., i.e., less than 200 Sq.ft.

It is the further case of the private respondent that the petitioner was not financially solvent at the date of application i.e. on 14.10.2022. He submits that the instant writ petition is liable to be dismissed as the petitioner who does not have a locus standi to be a selected candidate cannot file a writ petition.

In reply, the learned counsel for the petitioner sharply argued that the present private respondent is now running a FPS business at a different location which was inspected by the authority. He further argued earnestly before this court that if a special officer was appointed by this court the truth will be unearthed.

Having heard the submission of the learned counsel for the petitioner also considering the report filed on behalf of the state authority it appears to me that the state authority has submitted the report in respect of enquiry conducted over the proposed shop-cum-godown of the petitioner as well as the private respondent. The shop-cum-godown of the petitioner was inspected on 6th of January, 2023 and the shop-cum-godown of the private respondent was inspected on 12th of April, 2023. The enquiry report of the concerned inspector in respect of the petitioner has made an overall comments as follows :- (at page 20 report of the states' report), it depicted as follows:

Enquiry conducted as per GO. No.- 2596-FS, dt-09/08/2021 and the report submitted in Form L(ONLINE). Applicant did not produce proper lay out map, property tax receipt, legal heir certificate, proper NOC of land owner. It may be noted that the proposed shop cum godown is not fully constructed at the time of enquiry and said godown located in Mouza-HADIPUR CHUPRIJHARA, but place of Vacancy area is KUMRULI mouza. Hence, this may not be recommended.

From the report it appears that the petitioner is not an eligible candidate at the time of enquiry. The learned counsel argued that the enquiry of the petitioner and the private respondent

was conducted on the same day i.e. on 6th of January, 2023 but enquiry report which was prepared in respect of the private respondent dated 12th of April, 2023 is concocted and purported report. I have categorically perused the report of the private respondent. The report is signed by the concerned Inspector, Food & Supply, Deganga Block-2 which was countersigned by the Chief Inspector (Food & Supply Barasat-2).

I find no justification to raise a doubt in respect of that report. It is not mandatory that enquiry has to be conducted in respect of vacancy notification in a same day in respect of all candidates. In this case, the enquiry report reveals the enquiry of the private respondent was conducted on 12th of April, 2023. The petitioner has failed to establish any mala fide on the part of the state authority to conduct an enquiry in respect of the shop-cum-godown of the private respondent in belated stage. The allegation of the petitioner regarding conduction of business by pvt. respondent at different place, appears to me a bold allegation and without supported by any document. Hence, the same cannot be entertained. Moreover, it is the fact that writ court shall not act upon the plea of a person in respect of a selection of Government tender, who though participate in the tender but

became unsuccessful as not an eligible candidate. The petitioner is not an eligible candidate according to the notification dated 25.04.2022, specially according to Part-2 (12)(iv), (vi) of the said notification. Moreover, the proposed shop-cum-godown of the present petitioner is not within the vacancy location.

Accordingly, I find no justification to entertain the writ petitioner.

Accordingly, the writ petition being **WPA 27560 of 2023** is dismissed and disposed of as devoid on merit

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

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

(Subhendu Samanta, J.)