

26.9. 2025
item No.7
n.b.
ct. no. 24

WPA 30022 of 2024

with

I.A. No. CAN 1 of 2025

Manani Maity Mondal

Vs.

The State of West Bengal & Ors.

Mr. Ram Anand Agarwala,
Ms. Nibedita Pal,
Mr. Ananda Gopal Mukherjee,
Ms. Sonam Ray,
Ms. Nasrin Khatoon,
..... for the petitioner.

Ms. Sonal Sinha,
Ms. Munmun Ganguly,
..... for the State.

The petitioner applied for license in terms of vacancy Notification dated November 18, 2022 issued by Sub-Divisional Controller (F & S), Kakdwip. The application of the petitioner was duly scrutinized her proposed shop cum godown was inspected, thereafter, license in favour of the petitioner was granted on August 14, 2024.

On the basis of some complaint against the petitioner, the Sub-Divisional Controller (F & S), Kakdwip issued a letter to B.L. & L.R.O., Kakdwip to verify the conversion certificate of Plot No.1527 submitted by the petitioner at the time of processing her application. The concerned B.L. & L.R.O. has replied to the query of the Department and answered that “no conversion certificate under Section 4C of the W.B.L.R.

Act, 1955 has been issued in favour of Haradhan Mondal son of Ashutosh Mondal vide Memo No.1024 dated 26.12.2023". The concerned respondent authority on receipt of such Memo of B.L. & L.R.O. concerned, issued a show-cause notice upon the petitioner on August 30, 2024. The petitioner was given personal hearing, thereafter by passing a reasoned order dated December 10, 2024, the license of the petitioner was terminated. Challenging the show-cause notice and the order of termination, the instant petition has been preferred.

Mr. Ram Anand Agarwala, learned Senior Counsel appearing on behalf of the petitioner submits that the petitioner has applied for license over a plot of land, which was belonged to her father-in-law. Prior to her marriage, father-in-law of the petitioner has applied for conversion of the said land and the conversion certificate was issued in favour of the father-in-law. Her father-in-law was expired prior to her filing of the application and she found the conversion certificate from the records and Deeds of the father-in-law and placed it before the authority at the time of filing application.

Mr. Agarwal, further argued that the petitioner was not aware about the so-called fabrication of the conversion certificate. So, there is no mens rea on the

part of the petitioner to file the said so-called fabricated conversion certificate to get the license.

Mr. Agarwal, further argued that when mens rea was not proved against the petitioner, the license cannot be terminated. It is further argued by Mr. Agarwal, that the Hon'ble Division Bench in the case of **Archana Jana vs. State of West Bengal (M.A.T. 1300 of 2025)** has specifically held that production of Record of Right in respect of classification of land to be used for the purpose of construction of the proposed shop-cum-godown is completely optional.

Mr. Agarwal, learned counsel has cited the paragraph 24, 25, 26 as well as paragraph 38 and 39 in support of his contention.

“24. If such a power is not read into the authority of the licence issuing entity, it would wreak havoc, since a person practising fraud while obtaining the licence values cannot then be hauled up for such gross contravention of principles of natural justice and the basic tenets of India Law.

25. However, we are unable to convince ourselves from the materials on record that in the present case, a deliberate fraud was practised by the appellant.

26. To constitute “fraud”, there has to be an element of deliberate and wilful act or suppression on the part of the concerned person. Unless the action is deliberate, either in commission or omission, it cannot be said that a fraud has been perpetrated by the concerned person.

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.”

39. Hence, it is evident from the vacancy notification itself tht the character of the land need not be established by production of the records of rights. If such requirement is not an essential pre-requisite for a licence application as per the vacancy notification itself, which circumscribes the grant of the licence, non-production of records of rights or consequential non-disclosure of the character of land as depicted in the records of rights would be entirely irrelevant while cancelling the licence as well. If a particular requirement is not there for issuance of a licence in the first place, non-fulfilment of such requirement cannot be a ground for calcelling the licence as well.”

Ms. Sonal Sinha, learned counsel appearing for the State respondent submits that concerned licensing authority on the basis of mass complaint against the petitioner has enquired into the matter and it come to the knowledge of the authority that the conversion certificate, which was issued in favour of father-in-law of the petitioner is fabricated.

He further submits that the petitioner itself has violated the terms and conditions of Clause – 15 (IV) of the F.P.S. Vacancy Notification dated November 18, 2022 by placing false and fabricated documents. Consequently, a show-cause notice upon the petitioner was issued and after giving an opportunity of being heard, the impugned order has been passed, hence, there is no illegality in the eye of law.

Having heard the learned counsels appearing for the parties it appears that the only issue involved herein that proceeding initiated by the concerned authority by issuance of show-cause against the petitioner and the

impugned order of termination of license, whether justifiable or not.

Clause 15(IV) of the Vacancy Notification read as follows:-

“(iv) Any suppression of fact/ information or incorporation/providing of wrong information in the Application Form or attached documents will be considered as a good and justifiable reason for disqualification for a candidate or rejection of application and taking appropriate legal action.”

In thorough perusal of the said provision it appears that the suppression of material fact and providing wrong or false information in the application form or attached document will be considered as a good ground for disqualification of the candidate or rejection of the application. The entire Clause sub-clause (IV) of Clause 15 is a provision, which is available to the authority at the time of considering the application of the candidates. After a candidate has got appointment from the concerned authority by issuance license, Sub-Clause (IV) of Clause 15 cannot be applicable.

It further appears that the concerned authority has initially verified the documents as placed by the petitioner including conversion certificate. It is quite dark before this Court how the authority concerned has approved the license of the petitioner without properly following the provisions for clarifying and verifying the documents placed by the petitioner.

It is the report of the State authority that on the basis of some complaint, the concerned SCFS has

proceed to carry out an enquiry regarding the correctness of conversion certificate placed by the petitioner at the time of making application. The conversion certificate has placed on record with the report of the authority.

The mass complaint, which disclosed before the authority that the godown was constructed over a “Barga” land. The report of the Block Land & Land Reforms Officer, Kakdwip dated 27th August, 2024 properly disclosed that no conversion certificate was issued under Section 4C of the W.B.L.R. Act in favour of the Haradhan Mondal. The conversion certificate was placed as Annexure – B with the report of the authority. Annexure – B discloses that the conversion certificate appears to be issued on December 26, 2013 and the application for license was made much after that period. Moreover, the report of the B.L. & L.R.O. does not disclose whether the godown was constructed over the “Barga” land or not. No Record of Right has been placed by the concerned authority in respect of land in question, therefore, it is not proved before this Court that the godown was constructed over the “Barga” land.

It can be very well presumed that the enquiry report of the concerned Enquiry Officers, who conducted the enquiry at the time of inspection of proposed ship cum godown must have noted that the proposed godown of the petitioner was constructed over the land, which is

not “Barga” land. Moreover, present R.O.R was also not placed.

The Hon’ble Division Bench in **Archana Jana(supra)** has properly clarified that production of Record of Right at the time of submission of application is optional. Moreover, the Hon’ble Division Bench has also dealt with the factum of fraud and alleging perpetrated work of the petitioner in **Archana Jana**.

In the present case, the allegation of the present petitioner is that she produced a fabricated document to get the license in her favour. The document itself appears to be very old and which was not received by the petitioner or got by the petitioner. The petitioner only placed those documents for getting license, which was remained with her father-in-law. The term ‘fraud’ means and includes an illegal and wrongful act conducted by a person intended to deceive others to gain undue advantage. To constitute an offence of fraud, ‘mensrea’ or criminal intention of perpetrator must be proved. Preparation and production of the document with guilty mind of the petitioner is required to be proved by the authority to hold that the petitioner herself has conducted the offence of fraud. Merely producing a document from the cupboard of her father-in-law does not itself construe an offence of fraud.

Under the above observation it appears to me though the petitioner has placed a document, which

appears to the authority to be not proper document or fabricated document but as the petitioner herself not perpetrated the act of fraud, in my view, the petitioner cannot be held liable for such act. Moreover, the concerned authority has not disclosed any reason as to the fact that the proposed godown where the petitioner running license is such a land, which is not possible to run the business.

On the above, in my view, I find no justification to support the impugned order dated 10th December, 2024 passed by the Sub-Divisional Controller (F & S), Kakdwip. Thus, the order of termination of license against the petitioner dated December 10, 2024 appears to me not proper and the same is hereby quashed.

The concerned authority is directed to restore the license of the petitioner immediately by allotting foodgrains according to law.

With the above observation, writ petition stands disposed of.

Connected applications, if any, stand disposed of.

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

(Subhendu Samanta, J.)