

23.03.2026

Sl no.08

b.r

Crt.10

W.P.A No. 1645 of 2026

Atin Baidya

-vs-

The State of West Bengal & Ors.

Mr. Ramesh Dhara

Mr. Gourav Banerjee

..... For the petitioner.

Mr. Swapan Kumar Datta, Ld. GP

Mr. Rajat Dutta

Mr. Abirban Datta

..... for the State.

- 1.** Parties are represented through their respective Learned counsels.
- 2.** Pursuant to the Order dated 11.03.2026 the State has filed the records in a sealed cover, certified as true, to apprise this Court with regard to the uploading of the Notification dated 19.09.2025 and also to confirm the date of the order passed by the respondents. The certified copies of the records to be as true be kept on record.
- 3.** The State respondent demonstrates from the records produced in Court today that the order of rejection has been passed on 28.08.2025 and the same has been uploaded on the portal on the even date.
- 4.** The State fairly submits that the vacancy notification dated 16.05.2024 has been re-notified by a

further vacancy notice dated 19.09.2025, due to dearth of suitable candidates in running FPS dealership.

5. The petitioner has approached this court at a belated stage since the re-notified vacancy notice has already been introduced on 19.09.2025 and as such no cause of action survives.

6. In this context the petitioner vehemently opposes the same and submits that the vacancy notice has not been given any effect either by way of an advertisement or has been uploaded in the official website of the concerned department, places reliance upon the Clause 7 of the Vacancy Notice dated 19.09.2025 which is reproduced below:

*“7. Last date of submission of application:
The application can be submitted online, within 45 (forty-five) days from the date of publication of indicative advertisement of the FPS vacancy in the newspaper.”*

7. After careful consideration of the case and upon perusal of the records made available, I am of the considered view, that the candidature of the petitioner which has been rejected on the sole ground of the character of land, being in the nature of ‘Ayush’ is unsustainable in the light of the judgments of the Hon’ble Division Bench in the Gouri Das Biswas Vs. State of West Bengal (MAT 224 of 2024) as well as in the case of Archana Jana Vs. State of West Bengal (MAT 1325) and also another judgment of the Hon’ble Single Bench of this Court in WP 23340 of 2025 (Mita

Parwin Vs. State of West Bengal and Others) wherein it has been observed the production of ROR is optional and not mandatory.

8. The petitioner heavily places reliance upon paragraph Nos. 34 to 38 of the Judgment of Archana Jana (supra) which is reproduced as follows :-

*“ 34. Even in respect of other categories of properties than leased ones, the production of records of rights is optional.
35. Under clause (A), which deals with ownership properties, the requirement under sub-clause (a) is the production of the photocopy of records of rights/registered deed of conveyance etc.. However, such requirement is diluted and made optional by the immediately succeeding sub-clause (b) which provides that a document showing the character of land as dokaan/commercial/bastu would be sufficient if records of rights are not produced.
36. It is conspicuous that the language used in respect of the records of rights in the said sub-clause is not “is not available” but “is not produced”, thereby leaving the option entirely on the applicant either to produce the records of rights or any document showing the character of land as dokaan/commercial/bastu irrespective of the availability or non-availability of records of rights.
37. Even in case of property owned by a family member of the applicant, covered by Clause (B) of the vacancy notification, the requirement is similar to that of an owned property.
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 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.”*

9. The petitioner has satisfied all eligibility criteria of the vacancy notification rendering the character of land as Ayush being the sole ground of rejection, is no longer res integra. As the re-notified vacancy has not been advertised, the petitioner’s candidature should be considered as afresh in accordance with law. I direct

the respondent No. 3 to revisit the issue concerning the petitioner, taking into account the candidature since the re-notified vacancy notice dated 19.09.2025 has not been given any effect. The respondent No. 3 shall consider the matter in the light of the judgment passed by the Hon'ble Division Bench in the case of Gouri Das (supra) and Archana Jana (supra) within a period of 60 days and shall pass a reasoned order in accordance with law upon affording an opportunity of hearing to the petitioner and other stake holders, if any, and communicate the same within a week thereafter.

10. With the above direction, this writ petition, **WPA 1645 of 2026** stands **disposed of** without going into the merits of the case.

11. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Smita Das De, J.)