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17.02.2026
Ct No.11
rrc

FMA 1659 of 2025
with
IA No. CAN 1 of 2025
(Md. Samim Vs. State of West Bengal & Ors.)

Md. Samim
... Appellant (in person)

Mr. Amritalal Chatterjee
..... For the State respondents

Mr. Sovan Dasgupta
Mr. Swagata Dasgupta
Mr. Amitesh Dasgupta
..... For the respondent no. 10

In this intra-court appeal, the writ petitioner/appellant (hereinafter referred to as 'the appellant') has called into question the legality and propriety of the judgment and order dated 3rd September, 2025, passed by the learned Single Judge in WPA 26862 of 2023, whereby the writ petition preferred by the appellant was dismissed.

Briefly stated, the facts giving rise to the present appeal are that, by a vacancy notice dated 7th June, 2022, the concerned respondent invited applications from eligible and intending candidates for appointment to a vacant Fair Price Shop at Harishchandrapur Block in the district of Malda. Pursuant to the said notice, several candidates, including the appellant and the respondent no. 10, submitted their respective applications.

Upon receipt of the said applications, an enquiry was conducted and marks were awarded in accordance with the order dated 17th August, 2021 issued by the Government of West Bengal, Department of Food & Supplies. The appellant secured 68 marks, whereas the respondent no. 10, who emerged as the successful candidate, secured 74 marks.

With the allegation that the respondent no. 10 had been illegally and unfairly favoured by being awarded higher marks, the appellant filed a writ petition being WPA 19293 of 2023. The said writ petition was disposed of by an order dated 17th August, 2023, whereby the respondent no. 3 was directed to consider the appellant's representation dated 28th April, 2023 in accordance with law, upon affording an opportunity of hearing to the appellant, within the stipulated period.

Being aggrieved thereby, the respondent no. 10 assailed the said order dated 17th August, 2023 by preferring an appeal being MAT 108 of 2023. The records reveal that the said appeal was disposed of by an order dated 12th October, 2023; however, the Hon'ble Co-ordinate Bench did not accept the contention of the appellant therein.

In compliance with the order passed in WPA 19293 of 2023 and upon completion of the enquiry, the Director (DDP&S), Department of Food & Supplies, Government of West Bengal, respondent no. 3 herein, passed an order dated 14th September, 2023, which was communicated to the appellant under a covering letter dated 12th October, 2023, whereby the allegations raised by the appellant were rejected.

The appellant did not challenge the said order dated 14th September, 2023. Instead, he filed another writ petition being WPA 26826 of 2023. The order dismissing the said writ petition is the subject matter of challenge in the present appeal.

Mr. Samim, the appellant appearing in person, alleges that the concerned authority, with an ulterior motive, awarded higher marks to respondent no. 10 in derogation of the applicable guidelines and/or circulars issued by the Government.

“He further submits that the private respondent, being respondent no. 10 herein, despite lacking the requisite eligibility and suitability for being granted a fair price shop licence, was awarded higher marks by the concerned selection committee and thereby granted the licence. However, the said issues, as raised by the appellant, were glossed over and no finding was returned thereon. He further contends that the learned Judge declined to entertain the writ petition filed by the appellant primarily on the ground that the writ petitioner had not challenged the reasoned order dated 14th September, 2023

Mr. Chatterjee, learned advocate appearing for the State respondents, referring to the vacancy notice and the score-sheet, has submitted that, as per the said notice, one of the essential criteria was the possession of an adjacent shop admeasuring an area of 200 sq. ft., to be used for office purposes.

He further submits that, admittedly, the appellant possessed a godown measuring only 122 sq. ft., and such fact has also been admitted by the appellant, as observed in the judgment dated 17th August, 2023 passed in WPA 19293 of 2023. Therefore, he contends that the appellant is admittedly not eligible for the said licence.

He also submits that, since the appellant has not challenged the reasoned order dated 14th September, 2023, he is estopped from raising such allegations in the present appeal. He further submits that, upon considering all relevant aspects, including the eligibility and suitability of the appellant and respondent no. 10, the selection committee duly awarded the marks. This Court cannot sit in appeal over such assessment.

Mr. Dasgupta, learned advocate appearing for the respondent no. 10, adopts the submissions advanced by Mr. Chatterjee and contends that the appellant is not eligible to obtain such licence. He further submits that the writ petition, as also the present appeal arising out of the order passed therein, is not maintainable

Heard the learned advocates appearing for the respective parties. Perused the materials on record.

Undeniably, the appellant has not challenged the reasoned order dated 14th September, 2023 and has allowed the said order to attain finality. Therefore, technically, if the principles of constructive res judicata and estoppel are applied in their full rigour, the appellant may be held to be precluded from raising the selfsame issues by initiating a separate proceeding.

However, even without adopting such a hyper-technical approach, if the documents placed before us are examined, it would be evident that, as per the vacancy notice, possession of a space measuring 200 sq. ft. to be used as an office room was one of the essential eligibility criteria. Admittedly, the appellant possessed a space measuring only 122 sq. ft.

Considering all these aspects and after assessing the suitability and eligibility of all the candidates, the Selection Committee awarded marks to each of them. This Court cannot be invited to sit in appeal over the decision of the Committee in awarding marks to the applicants.

The respondents are the sole judges of facts, and we do not find any infirmity in the decision-making process. In view of the aforesaid, the contentions raised by the appellant cannot be accepted. Accordingly, we are of the view that the learned Single Judge rightly rejected the appellant's claims.

We do not find any infirmity or perversity in the order impugned in the present appeal and, accordingly, find no merit in the appeal. Consequently, the appeal and its connected application are dismissed.

There shall, however, be no order as to costs.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)