

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA No. 21720 of 2023

**Sabina Yesmin
Vs.
The State of West Bengal & Ors.**

**For the Petitioner : Mr. Dhruba Mukherjee,
Mr. Asrof Mandal.**

**For the State : Mr. Sirsanya Bandopadhyay,
Mr. Arka Kumar Nag,
Mr. Ritish Ganguly.**

**For the respondent
No. 9 : Mr. Sagar Bandyopadhyay,
Ms. Soma Kar Ghosh.**

Judgement on : 21.09.2023.

Bibek Chaudhuri, J.

Upon a vacancy notification dated 26th August, 2022 in respect of filling up of Dealership of Fair Price Shop both the petitioner and private respondent no. 9 made applications. It is the case of the petitioner that the private respondent no. 9 was granted licence by the respondent authority on some extraneous consideration beyond the scope of inquiry which was conducted to ascertain the eligibility criteria of both the petitioner and the private respondent.

The learned Advocate for the petitioner submits that after filing the application both the petitioner and private respondent were

informed that an inquiry will be held on 13th April, 2023. The said inquiry was the score based inquiry conducted by the Rationing Inspector. It is contended on behalf of the petitioner that the petitioner had all requisite eligibility criteria and the Rationing Inspector was satisfied about the eligibility criteria of the petitioner. Subsequently, a second inquiry was made without giving any notice to the petitioner and private respondent was selected for Dealership of Fair Price Shop. It is further contended on behalf of the petitioner that during the first inquiry the private respondent had no godown. The private respondent had only a vacant land in front of his house. In order to give licence to the private respondent further inquiry was held on 30th July, 2023 and the respondent was selected. It is submitted on behalf of the petitioner that second inquiry was illegal and arbitrary in view of the fact that the respondent no. 9 was given an undue privilege by the State respondents.

Learned Advocate for the private respondent no. 9 submits that admittedly the inquiry was done on the basis of score based evaluation and the petitioner obtained 59 marks during inquiry, while the respondent no. 9 got 64 marks and, therefore, he was selected. Licence was also granted to him. There is no illegality, arbitrariness or *mala fide* in entire process and the writ petition is harassive in nature.

Learned Junior Standing Counsel on behalf of the State respondents submits that during inquiry entire eligibility criteria was scrupulously considered. It was found that the sales counter of the petitioner was bigger than that of the respondents but the godown for storage of food grains was smaller than that of the private respondents. The report also shows that the shop room and the

godown is in better condition on the point of construction as well as storage capacity. While petitioner's godown could accommodate 400 quintals of food grains the respondent no. 9's godown accommodates 450 quintals of food grains. Distance of the petitioner's godown from the central point is about 65 metres while the said distance from the central point to the godown of the respondent no. 9 is 50 metres. It is also submitted by the learned Advocate for the State respondents that on 3rd August, 2023 the godown of the respondent no. 9 was completely constructed.

I have considered the submissions made by the learned Advocates for the parties. It is not in dispute that the petitioner was served with a notice that inquiry would be held in respect of her proposed shop-cum-godown on 30th March, 2023 at 11.30 A.M. However, the said inquiry was held on 13th April, 2023. Subsequently, the respondents' godown and the shop room was inspected on 30th July, 2023. Though it is submitted by the learned Advocate on behalf of the private respondent that on 13th April, 2023 the proposed godowns and shop rooms of the applicants were inspected and on 30th July, 2023 the same was reverified. Therefore, it is not the fact that the petitioner's godown was not reverified on 30th July, 2023.

Be that as it may, when the petitioner submitted two representations dated 10th August, 2023 and 23rd August, 2023 to the District Magistrate, Murshidabad at Berhampore questioning the eligibility criteria of the respondent no. 9 on the date of inquiry the said representation ought to be considered by the authority. It is submitted by the learned Advocate for the petitioner that the District Magistrate is the Chairman of the District Level Selection Committee of Fair Price Shop Dealers. Therefore, the instant writ petition is

disposed of directing the District Magistrate, Murshidabad to cause an inquiry either by his representative or by the District Controller, Food and Supply, Berhampore, Murshidabad and dispose of the representation submitted by the petitioner within 60 days from the date of communication of the order after giving opportunity to the petitioner and respondent no. 9 of personal hearing or hearing through their representatives.

With the above direction, the instant writ petition is disposed of.

(Bibek Chaudhuri, J.)

**Srimanta, A.R.(Ct.)
Item No. 10.**