07.10.2026
13 Ct. No.10
BR

WPA 28042 of 2026

Titas Biswas
vs.
State of West Bengal &Ors.

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

Mr. S. Narayan Dutta,
Mr. Sudipta Ghosh
....for the State-respondents

1. The petitioner inter alia challenges the legality and the sustainability of the Order of rejection of the petitioner's application filed pursuant to Vacancy Notification under Memo No. 863/SCFS/DER/2004 dated 28.11.2024 for the location Chaltia Mriduhl Berhampur, Murshidabad, -742407 for grant of Fair Price Shop dealership.

2. It is submitted that pursuant to the said Vacancy Notification, the petitioner submitted her application electronically on 15.03.2025 along with all relevant documents. An enquiry was thereafter conducted by the Area Inspector on 02.06.2025.

3. Despite considerable lapse of time, the application remained pending and the petitioner was constrained to file a representation dated 19.08.2026 before the competent authority seeking expeditious disposal. Such inaction on the part of the respondents is de hors the statutory mandate and is unsustainable in law.

4. The Learned Counsel for the State, upon instruction submits that the candidature of the petitioner are under active consideration.

5. Having heard the Learned Counsels for the parties and upon perusal of the materials on record this Court is prima facie satisfied that the matter warrants interference at this stage. By balancing equities and securing the ends of justice, this Court directs respondent No. 3 to consider and dispose of the representation dated 19.08.2026 by passing a reasoned and speaking order within a period of six weeks from the date of communication o the order, in the light of the ratio laid down in Archana Jana Vs. State of West Bengal and Others reported in 2025 SCC Online Cal 6951, wherein it has been categorically observed that the cancellation of licence was misdirected and based on grounds not validated by the extant rules and regulation, including the Vacancy Notification itself. The relevant paragraph Nos. 39 to 41 of judgment in Archana Jana (Supra) are reproduced below:

> *"39. Hence, it is evident from the vacancy notification itself that 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 license application as per the vacancy notification itself, which circumscribes the grant of the license, non-production of records of rights would be entirely irrelevant while cancelling the license as well. If a particular requirement is not there for issuance of a license in the first place, non fulfillment of such requirement cannot be a ground for cancelling the license as well.*
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> *40. Hence, the description of plot no. 375 as Jal in the records of rights is not germane and not a valid basis for cancellation of a license at all. In any event, the appellant submits through counsel that an application has already been made for effecting the necessary rectification in the*

records of right and that a conversion application has since been made as well.

41. Be that as it may, since those are not essential criteria under the vacancy notification, we are of the opinion that the cancellation of the license of the appellant was entirely misdirected and based on grounds not validated by the extant rules and regulations, of the respondent authorities themselves."

6. The respondent No. 3 is directed to consider and dispose of the representation dated 19.08.2026 by passing a reasoned and speaking order in accordance with law, within a period of six weeks from the date of communication of this order after affording an opportunity of personal hearing to the petitioner and to communicate such decision within a week thereafter.

7. The respondent No. 3 shall also taken into consideration the judgment rendered in **Sudip Sarkar Vs. State of West Bengal,** reported in **2026 (2) CHN (CAL) 748 and 2026 SCC OnLine Cal 485** whereby Clause 2(V) of the Notification was struck down as ultra vires and the subsequent notification dated 17.07.2026 has been gazette.

8. With the above observations and directions the Writ Petition is disposed of without going into the merits of the case.

9. The report filed by the State Respondents be kept with the record.

10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Smita Das De, J.)