

12.03.2024
Ct. 654
D/L17
ss

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 5422 of 2024

Rafaya Sarkar

-Vs-

The State of West Bengal & Ors.

Mr. Md. Kutubuddin

... for the petitioner

Ms. Sonal Sinha,
Mr. Amrita Lal Chatterjee,
Ms. S. Barai

... for the State

Mr. Shamit Sanyal,
Ms. Priyakshi Banerjee
Mr. Sabyasachi Roy

... for the respondent no. 9

Affidavit of service filed on behalf of the petitioner is taken on record.

Mr. Md. Kutubuddin, learned Advocate for the petitioner submits that the petitioner made an application in respect of vacancy notification dated 13th February, 2023. Although the petitioner fulfilled the eligibility criteria, however, the licence has been granted in favour of the private-respondent no.9 in violation of the stipulation contained in the notification. The classification of land as per eligibility criteria should be dokaan/commercial/bastu. However, the classification of land of respondent no.9 as per the records maintained by the Land Reforms Department shows that the plot No.437 is classified as *awal*. Further, shop-cum-godown of respondent no.9 is within 12 to 15 metres of a Higher

Secondary School. On such ground, the grant of licence in favour of respondent no.9 is violative of the stipulation contained in the vacancy notification. The petitioner by way of the present writ petition challenges the grant of licence in favour of the respondent no.9.

Mr. Shamit Sanyal, learned Advocate for the respondent no.9 submits that the petitioner has no *locus* to file the present writ petition since she herself did not fulfil the eligibility criteria. He seeks to file affidavit-in-opposition to the writ petition.

Mr. Amritalal Chatterjee, learned Advocate for the State-respondent submits that the present writ petition is not maintainable and the petitioner does not have the *locus* to file the present writ petition. He seeks to file report in the form of affidavit.

Let such affidavit-in-opposition be filed by the respondent no.9 within a period of two weeks from date. Reply thereto, if any, be filed one week thereafter.

Let report in the form of affidavit be filed by the State-respondent within two weeks from date. Exception to such report, if any, be filed one week thereafter.

The point of maintainability as raised on behalf of State-respondent is kept open and shall be decided at the time of final disposal of the writ petition.

Let the matter appear after three weeks under the heading **'For Hearing'**.

(**Bivas Pattanayak, J.**)