

13.07.2026

Sl. No.: 42

Court No.10

BM

WPA 14935 of 2026

SK. EJAD ALI

VS

STATE OF WEST BENGAL AND ORS.

Mr. Debabrata Saha Ray
Mr. Pingal Bhattacharyya
Mr. Subhankar Das

... for the petitioner

Mr. Jayanta Kumar Das
Ms. Madhumanti Das

... for the private respondent

Mr. Falguni Bandyopadhyay, Sr. Govt. Adv.
Ms. Sreetama Neogi

... for the State

Mr. Gourav Das

... for the respondent no.7

- 1.** The affidavit of service filed in court today be kept on record.
- 2.** The petitioner in the instant case challenges inter alia the legality and the validity of the Order dated 15.06.2026 passed by the respondent No. 4.
- 3.** The core issue involved herein as to whether the Order dated 15.06.2026 passed by the respondent No. 4, upholding the FPS dealership licence of the private respondent, is legally sustainable when the shop cum godown is alleged to have been constructed on a plot allotted under Pradhan Mantri Abas Yojana-Gramin (hereinafter referred to as PMAYG for the sake of brevity and convenience) which permits only residential use.

4. By an Order dated 25.03.2026 passed in WPA 21290 of 2025 this Court directed the respondent No. 6 to consider the petitioner's representation dated 28.07.2025 and 05.08.2025 with the assistance of respondent No. 7 and to pass a reasoned order after affording opportunity of hearing.
5. Pursuant thereto respondent No. 4 has passed an order dated 15.06.2026 holding inter alia, that there has been no irregularity in granting FPS dealership licence to the private respondent with regard to the godown as the WBPDS (M&C) 2013 does not prohibit use of a PMAYG house as a godown. The petitioner's representation has been accordingly disposed of. The relevant extracts of the decision taken by the respondent No. 4 is reproduced below:-

“ Decision:

After careful consideration of

- (i) The order of the Hon'ble High Court at Calcutta;*
- (ii) Fresh enquiry report of the SCF&S, Kharagpur on 12.06.2026'*
- (iii) The West Bengal Public Distribution (Maintenance & Control) Order, 2013 (WBPDS(M&C) Order, 2013) as amended time to time;*
- (iv) Hearing statements of the parties concerned ;*
- and*
- (v) FPS vacancy notification.*

It is clear that the proposed shop-cum-godown offered by Tanushree De was constructed under PMAY-G scheme. But there is no such clause/point/restriction in the WBPDS(M&C) Order, 2013 or in the said FPS vacancy notification that a house/building constructed

under Pradhan Mantri Awas Yojana cannot be used as an FPS godown if it fulfils all of the specified criteria. And as per fresh enquiry report of the SCF&S, Kharagpur, Tanushree De is in physical possession of the said shop cum godown situated at Mouza-Basudevpur, J.L. No.112, Khatian No.308 & 309, Dag No.315.

In view of the above facts and circumstances, it is found that there was no irregularity in granting the FPS dealership licence to Tanushree De in regard to the godown. So, licence as issued to Tanushree Dey may not be cancelled on that ground.

Hence, the representations of the petitioner (Sk. Ejad Ali) dated 28.07.2025 and 05.08.2025 are thus disposed of and order of the Hon'ble High Court, Calcutta dated 25.03.2026 in the matter of WPA 21290 of 2025 is complied with.

Let the copy of the order be communicated to all concerned."

- 6.** It is submitted by the petitioner that the respondent No. 2 ignored the PMAYG condition. Hence the grant of licence to the respondent No. 2 is illegal and liable to be cancelled. It is further submitted that the respondent No. 5, Sub-Divisional Officer by an Order dated 24.09.2025 has already withheld temporarily the new FPS Licence and directed that 3678 beneficiaries be tagged with another licence holder, Manowari Bibi till further order.
- 7.** As per the Field Inquiry held in respect of the petitioner and the private respondent, it appears that both of them have fulfilled the prescribed eligibility criteria and possess the suitable shop cum godown for operation of a FPS.

- 8.** In this context the petitioner submits that constructing a shop cum godown on a land under the scheme is prohibited, therefore, the private respondent is not the most suitable candidate for grant of licence.
- 9.** The Learned Counsel appearing for the private respondent vehemently submits that the godown has not been constructed under any government scheme. The plot is a private property taken on lease under a registered lease deed from the lessor. It is further submitted that the findings of the respondent No. 4, that the structure is a PMAYG structure is factually incorrect and not sustainable in law.
- 10.** The decision taken by the respondent No. 4 suffers from infirmity since the plot in question does not fall under any scheme. It is exclusively a private property and is in possession of the lessor who has leased out the private respondent for running the FPS dealership business.
- 11.** The Learned Counsel for the State submits that pursuant to the Inquiry Report and document, the respondent No. 4 arrived at a logical conclusion that the private respondent has been the most suitable candidate and there has been no irregularity qua the godown. It is further submitted that neither the WBPDS Control Order 2013 nor the FPS Vacancy Notification contains any clause prohibiting PMAYG

house from being used as a godown, if all other criteria are met.

12. Having heard the parties and upon perusing the records made available this Court finds that the field inquiry reveals both petitioner and the private respondent have fulfilled eligibility criteria and have been in possession of a shop cum godown.

13. This Court finds a gross legal infirmity in the Order dated 15.06.2026. Records indicate that a plot allotted under PMAYG cannot be used for any purpose other than residential.

14. The respondent No. 4 failed to apply his mind to the overriding PMAYG restrictions based upon a decision solely on the absence of an express bar in the WBPDS Order and such an approach is not sustainable. The Order dated 15.06.2026 passed by the respondent No. 4 is hereby quashed and set aside. The licence of the private respondent stands cancelled.

15. In view of the above the above findings, the decision of the respondent No. 4 suffers from irregularity and is not sustainable in law. I direct that the petitioner shall submit a comprehensive and detailed representation before respondent No. 3 within a period of two weeks from the date of this order. The respondent No. 3 shall consider the same within a period of 4 weeks from the date of the receipt of the detailed representation. A

reasoned speaking order shall be passed in accordance with law upon affording an opportunity of hearing to the petitioner and the private respondent and the lessor of the plot in question. Such decision shall be communicated within a week thereafter.

16. However, it is made clear the private respondent shall also file relevant documents including the lease deeds before the respondent No. 3 to prove that the shop cum godown has not been constructed under the PMAYG scheme. If required, a further independent inquiry shall be conducted in presence of the petitioner private respondent and the lessor of the plot in question to arrive at a logical conclusion. The Inquiry Report filed by the private respondent is kept on record.

17. With the above observation and direction, the Writ Petition is disposed of without going into the merits of the case.

18. Since the affidavit has not been called for, the allegations contained in the writ petition are deemed to have been denied and not admitted.

19. Urgent photostat copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)