



**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya**

**MAT No. 835 of 2025
IA No: CAN 2 of 2025**

**The State of West Bengal and Others
– Versus –
Kandi Srijani**

For the appellants/State: Mr. Swapan Kr. Datta, Sr. Adv. & G.P.,
Mr. Tapas Kr. Dey, Adv.

For the respondent/
writ petitioner : Mr. Debabrata Saha Roy, Sr. Adv.,
Mr. Debasish Kundu,
Mr. Subhankar Das, Advs.

Heard on : 13.11.2025 & 27.11.2025

Reserved on : 27.11.2025

Judgment on : 02.12.2025

Sabyasachi Bhattacharyya, J.:-

1. The present appeal has been preferred by the State authorities against the judgment dated April 2, 2025, whereby the learned Single Judge disposed of WPA No. 7296 of 2025 by quashing an order dated March 24, 2025 passed by the concerned authorities, by which the Fair Price Shop (FPS) License of the petitioner was revoked, and directing the authorities to reinstate the writ petitioner/respondent with immediate effect as licensee and allow him to continue with the licence according to the procedure



established in law. It was further clarified by the learned Single Judge that the findings of the writ court shall not debar the authority concerned to proceed against the writ petitioner for termination of licence according to the procedure established in the West Bengal Public Distribution System (Maintenance and Control) Order, 2013 (for short, “the 2013 Control Order”).

2. Learned Government Pleader contends that the learned Single Judge proceeded on the erroneous premise that once a licence is issued, the status of the writ petitioner is that of a ‘licensee’ and not an ‘applicant’ and, as such, the licence could not be revoked.
3. It is argued that in terms of the Vacancy Notification dated December 11, 2013, pursuant to which the FPS Licence was granted to the writ petitioner/respondent, the eligibility criteria restricted the applicants to individuals permanently residing in the Domkal Sub-Division, Registered Partnership Firm, Registered Co-operative Society, Sangha or Mahasangha of Self-Help Groups working within Murshidabad District. As such, societies which were not co-operative societies but registered under the Societies Registration Act were not eligible under the said Vacancy Notification even to apply for such licence. The writ petitioner/respondent, being admittedly not a co-operative society but an ordinary society registered under the Societies Registration Act, was, thus, not eligible to participate.
4. It is argued that Clause 9 of the Vacancy Notification merely provided, in addition to the eligibility criteria stipulated in Clause 8,



that certain category of persons/entities also would not be eligible to apply for licence of FPS Dealership. However, it is contended that unless the threshold eligibility criteria were fulfilled, no entity would be eligible to apply for such licence in the first place. Hence, the grant of licence to the respondent was the result of a *bona fide* error at best and such grant was void *ab initio* in view of the respondent having not met the eligibility criteria.

5. Learned Government Pleader places reliance on the screenshot of the online application of the respondent on the official portal to indicate that the respondent had categorically mentioned under the heading “Application Type” that it was a “Registered Co-operative Society”. Thus, due to such misrepresentation on the part of the respondent, the authorities were misled into granting the FPS Dealership to it, despite the respondent being merely a society under the Societies Registration Act and not a registered co-operative society in terms of the eligibility criteria.
6. It is submitted that in view of such suppression and misrepresentation on the part of the respondent, the appellants were justified in revoking its licence.
7. Learned Government Pleader relies on Clause 11(iv) of the Vacancy Notification which provides that any suppression of fact/information or incorporation/providing of wrong information in the application form or attached documents will be considered as a good and justifiable reason for disqualification for a candidate or rejection of the application and taking appropriate action.



8. Sub-clause (v) of Clause 11 further provides that the Licensing Authority or Government in Food & Supplies Department reserves the right to reject any application or cancel the vacancy at any stage of the processing of the application(s) without assigning any reason thereof and will not entertain any correspondence on this score.
9. Since the illegality hits at the very root of the grant, it is argued that the licensing authority always has the right to revoke the licence. The defect in issuance of licence was incurable, making the application liable to be rejected summarily. Moreover, the respondent came with unclean hands, misrepresenting its status as a registered co-operative society.
10. Learned Government Pleader contends that Clause 24 of the 2013 Control Order operates on a different footing and empowers the authorities to take action against a licensee for committing irregularities post-grant of licence. Upon the conditions therein being satisfied, such licence may be terminated by the authorities. However, this is not a case coming under the said clause, as the illegality hit at the very root of the issuance of licence at the inception and the impugned decision of the appellants was to revoke such licence, which is different from subsequent cancellation/termination of licence due to irregularities committed after the grant of licence.
11. Learned Government Pleader contends that the power to revoke a licence is inherent in the licence issuing authority. In support of such proposition, learned Government Pleader cites *Ibrahim Bachu*



Bafan v. State of Gujarat and Others, reported at AIR 1985 SC 697, where the distinction between cancellation and revocation was discussed at length. In the said judgment, the Hon'ble Supreme Court referred to Vol. 77 of the Corpus Juris Secundum, 1952 Edition, to observe that the word 'revoke' carries within it the "idea of cancellation by the same power which originally acted and not setting aside of any original order by a higher forum of power or jurisdiction. It does not mean repudiation.

12. Learned Government Pleader also cites *Videsh Sanchar Nigam Ltd. and Anr v. Ajit Kumar Kar and Ors.*, reported at AIR 2009 SC 34, where it was observed that it is well-settled that a *bona fide* mistake does not confer any right to any party and can be corrected.
13. Learned Government Pleader next refers to Section 21 of the General Clauses Act, 1897, which provides that where, by any Central Act or Regulation, a power to issue notifications, orders, rules or by-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or by-laws issued.
14. By drawing analogy with the said Section, it is argued that the licence issuing authority was justified in revoking the licence. The prior recommendation required for issuance of licence from higher authorities, it is submitted, is a mere formality and is not binding on the licensing authority. Thus, the power to issue licence is ultimately vested in the licensing authority which also,



consequentially, has the power to revoke such licence, if illegally granted.

- 15.** Learned senior counsel appearing for the respondent controverts the arguments of the State and submits that in the present case, no show cause notice was given, indicating clearly the charges levelled against the respondent, before annulling the licence.
- 16.** The purported notice of hearing dated March 4, 2025 is placed before the Court to indicate that the same merely requested the respondent to appear before the Sub-Divisional Controller, Food & Supplies Department, that is, the licence issuing authority and to bring all corroborative documents in support of the respondent's candidature, by erroneously describing the subject to be a personal hearing on the matter of the respondent's "applicant status". In view of the stage of application having already been crossed and licence having been granted in favour of the respondent, the respondent had the status of a licensee and vested rights had accrued in favour of the respondent to run the FPS Dealership.
- 17.** By the impugned decision dated March 24, 2025, the licence was revoked by invoking Clause 11(iv) of Part-4 of the Vacancy Notification, which merely provides that in case of any suppression of fact or providing wrong information in the application form, a candidate can be disqualified and his application can be rejected at any stage of the processing of the application. However, since such stage was long over, the said clause was not applicable at all to the respondent.



- 18.** Learned senior counsel argues that there was a thorough scrutiny and enquiry into the credentials of the respondent before the grant of the dealership to the respondent at least at four different levels. Even upon such scrutiny and a specific recommendation by the higher authority to the licensing authority to grant licence, the licence was revoked by the licensing authority without having any sanction from the said hierarchy. Thus, it is argued that the licensing authority did not have the authority or jurisdiction to revoke such licence unilaterally.
- 19.** Learned senior counsel appearing for the respondent next contends that there was no suppression of material information by the respondent at any stage.
- 20.** By placing the exception of the respondent to the supplementary affidavit filed by the appellants, learned senior counsel points out that in the enquiry report in respect of the respondent, all details had been considered. As against Serial No. 32, relating to the nature of the applicant, it was specifically commented by the Enquiry Officer (Sub-Divisional Controller), that the nature of the applicant was “Registrar of Societies”.
- 21.** Against Serial No. 50 of the Enquiry Report, relating to whether the applicant had submitted all documents as per checklist, the finding was in the affirmative. Against Item No. 37 of the said Report, pertaining to whether the respondent is registered under the relevant Act, the specific registration no. and date of registration was mentioned in the right-hand column and it was also mentioned



that the registration was under the Registrar of Firms, Societies & Non-Trading Corporations, West Bengal.

- 22.** Thus, it is argued that it was always known to the appellant-authorities that the respondent was registered as a society under the Societies Registration Act, and not a co-operative society. Hence, the allegation of misrepresentation or suppression is baseless.
- 23.** Learned senior counsel next argues that the Vacancy Notification did not enumerate any specific bar to registered societies for applying under the said Notification. Part-3, Clause 9 of the said Notification enumerated the categories of persons/entities not eligible to apply for a licence of FPS Dealership. A corporation or company is also mentioned under the said clause to be debarred from making such application. However, in the preceding eligibility criteria, there was no specific bar for a registered society to apply. It is argued that the expression “individual” as mentioned in the eligibility criteria in Clause 8 (i) includes, by necessary implication, registered societies other than co-operative societies as well.
- 24.** In such context, learned senior counsel cites an unreported co-ordinate Bench judgment of this court in *MAT No. 562 of 2021 [M/s. Sonai Food Marketing Pvt. Ltd. & Anr. v. State of West Bengal & Ors.]*. In the said judgment, the Division Bench observed in connection with a similar Vacancy Notification that the eligibility criteria included a “group of individuals as an entity” and held that it was difficult to appreciate that such concept was restricted only to fluid aggregation of so-called natural persons. To the mind of the Court,



the said expression could also relate to a juristic entity such as a Company formed out of a group of individuals being its promoters, shareholders and Directors.

- 25.** It was further considered by the co-ordinate Bench that in the absence of any specific bar to a company applying for dealership, the expression “group of individuals as an entity” should be given a contextual meaning.
- 26.** By similar logic, it is argued, in the present case, by inclusion of a bar regarding corporate entities and companies in Clause 9, it was implicitly recognized that a company must also come within the broader purview of the term “individual” mentioned in the eligibility criteria, since otherwise there would be no meaning in including a company within the bar, unless there was a scope of interpretation of a company as an ‘individual’.
- 27.** Since there was no specific bar in respect of registered societies other than co-operative societies in the eligibility criteria, as opposed to a company, a wider meaning should be given to the term “individuals” in the eligibility criteria and registered societies like the respondent ought to be included.
- 28.** Learned senior counsel next argues that the above interpretation was, in fact, construed to be the correct interpretation by the appellants-authorities themselves, since another registered society (not co-operative society) on similar footing as the respondent was also issued dealership under the self-same Vacancy Notification, which licence has been annexed to the present writ petition.



29. Lastly, it is argued that by a subsequent Notification dated September 12, 2025, the absence of any provision for revocation of licence was sought to be addressed by introducing Clause 14A in the Control Order, which specifically provides for revocation of licence if it is found that the approved candidate or dealer was ineligible for licence on the grounds mentioned therein, including suppression of material facts, misrepresentation of facts, etc. However, even in such case, the power of revoking licence has been given to an authority higher than the licensing authority, that is the DLFPSSC, which is the very authority on whose recommendation the licence was issued by the licensing authority. It is argued that by introduction of the said provision in 2025 (which, of course, is not applicable in the present case), by necessary implication it has been admitted that there was previously no provision for revocation of licence. Secondly, even in the said amendment, the power to revoke has been conferred upon a higher authority than the licensing authority. Thus, the licensing authority was not empowered in any event to revoke the licence, having issued the licence in the first place on the recommendation of higher authorities, only after several layers of scrutiny.
30. Upon hearing learned counsel for the parties, the Court comes to the following conclusions:

Power of revocation



- 31.** The moot question which arises in the present case is whether under the 2013 Control Order, which was prevalent at the time of issuance of the Vacancy Notification dated December 11, 2023, the licensing authority had the power to revoke a licence which has already been granted, apart from the power of cancellation under Clause 24.
- 32.** Clause 24 of the 2013 Control Order empowers the authority prescribed therein to take action against a licensee for committing irregularities by contravention of any of the provisions of the Control Order or any of the Regulations made thereunder or any of the conditions of his/her licence, or if any discrepancy of stocks or in the weighment device is detected. Upon such detection, several penal measures are contemplated in Clause 24 of the 2013 Control Order, including suspension and termination of licence as well as reduction in the volume of business.
- 33.** However, on a bare reading of the said provision, it is evident that the same operates post-grant of licence, for irregularities committed by a licensee while functioning as a licensed FPS Distributor, subsequent to the grant of licence. Thus, in order to come within the ambit of Clause 24, the alleged irregularities have to be committed subsequent to the issuance of licence and not prior thereto.
- 34.** In the present case, the allegation is that the respondent was not eligible at all to get the licence and misled the authorities into



granting the same. Hence, Clause 24 is not attracted in the present case at all.

- 35.** The question which now falls for consideration is whether in the absence of any specific provision, the licence issuing authority is empowered to revoke the licence, once granted. The reliance of the appellants on Clause 11(iv) of the Vacancy Notification is not directly relevant, since the same, *per se*, relates to the disqualification of a candidate or rejection of application prior to the grant of licence. However, the said provision enumerates the conditions under which an application for licence may be rejected at the threshold.
- 36.** As held above, the facts of the present case do not come within the purview of Clause 24 of the 2013 Control Order, being not a case of cancellation of licence or taking penal measures by termination due to post-grant irregularities committed by the dealer.
- 37.** As rightly contended by the appellant, the power of revocation of licence is implicit and inherent in the licence issuing authority in case it is found that the grant of licence itself was illegal *ab initio*. Such power to revoke stems from the very source of power which authorizes the licensing authority to grant licence.
- 38.** The above proposition finds support in the judgment of *Ibrahim Bachu Bafan (supra)*¹. It would be worthwhile to examine the principle laid down in Paragraph Nos. 8 and 9 of the said judgment, which are quoted below:

1. *Ibrahim Bachu Bafan v. State of Gujarat and Others*, reported at AIR 1985 SC 697



“8. The rule relating to interpretation of statutes is too well settled to be disputed that unless a contrary intention is expressly or by necessary implication available, words used in a statute should be given the same meaning. This position is all the more so where the word occurs in two limbs of the same section. We, therefore, agree with the contention advanced by counsel for the petitioners that the word “revocation” in sub-section (2) has the same meaning and covers the same situations as provided in sub-section (1) of Section 11 of the Act. This would necessarily mean that the power under sub-section (2) would be exercisable in cases covered by sub-section (1).

9. This leads us to examine the tenability of the submission of Mr Jethmalani as to the true meaning of the word “revocation.” “Revoke” is the verb and “revocation” is its noun. These words have no statutory definition and, therefore, would take the commonsense meaning available for these words. Black's Law Dictionary gives the meaning of the word “revoke” to be “the recall of some authority or thing granted or a destroying or making void of some deed that had existence until the act of revocation made it void”. Wharton's Law Lexicon gives the meaning to be “the undoing of a thing granted or a destroying or making void of some deed that had existence until the act of revocation made it void”. The Shorter Oxford English Dictionary gives the meaning of the word “revocation” to be “the action of recalling; recall of persons; a call or summons to return; the action of rescinding or annulling, withdrawing...”. The meaning of the word “revoke” has been given as “to recall, bring back, to restore, to retract, to withdraw, recant, to take back to oneself”. The true meaning of the verb “revoke” and its noun, therefore, seem to signify that revocation is a process of recall of what had been done. According to the Webster's Third New International Dictionary, the word means — “an act of recalling or calling back, the act by which one having the right annuls something previously done”. According to the Corpus Juris Secundum, 1952 Edn., Vol. 77, the word “revoke” carries with it “the idea of cancellation by the same power which originally acted and not to setting aside of an original order by higher forum of power or jurisdiction. It does not mean repudiation”.”

- 39.** As per the above principle, the expression “revocation” is akin to an act of recalling or calling back, the act by which one having the right to do an act has the right also to annul something previously done



de hors the law. The expression ‘revoke’ has been defined in the above report as “to recall, bring back, to restore, to retract, to withdraw, recant, to take back to oneself”. The said concept is fundamentally different from cancellation of an already-granted licence on the ground of post-grant illegalities or irregularities or offences committed by the licensee. Whereas revocation is annulment or nullifying the act of grant of licence itself, post-facto cancellation is based on subsequent prohibited acts by a licensee, holding an otherwise-valid licence.

40. However, the reliance of the appellants on Section 21 of the General Clauses Act, 1897 cannot be apt in the present case, since the same refers to issuance of notifications, orders, rules or by-laws, having the force of law and not tender notices or Vacancy Notifications as such, the latter being executive action rather than legislative function – be it legislation of the first degree or delegated legislation. Moreover, under the said provision, the process of revocation has to follow the same process by which the original act was done. Hence, Section 21 of the said Act is not the source of power or revocation of licence issued under a Vacancy Notification, even by analogy. The power of revocation at which we are looking now is more of a rudimentary first principle, in the sense that the power to revoke or annul an act, if found to have been done without authority or by dint of an error hitting at the root of the act, inheres in the authority which is clothed with the power to do the act in the first place.



- 41.** Moreover, as discussed above, and also recognized in *Videsh Sanchar Nigam Ltd. (supra)*², once a *bona fide* mistake is detected, the same does not confer any right on any party who is the beneficiary of such mistake and such *bona fide* act may always be corrected by the authorities which committed the same in the first place. If we examine Clause 11, sub-clauses (iv) and (v), of the Vacancy Notification in such context, it would be amply clear that providing wrong information or suppressing a relevant fact would be sufficient ground for disqualification of a candidate. Read with Clauses (1) and (8) of the said Notification, which stipulate the threshold eligibility criteria, the respondent was not entitled at the outset even to apply for grant of licence, thus vitiating the act of grant of licence as void *ab initio*. Such mistake can definitely be corrected by the licensing authority, in which the right to recall a faulty grant of licence inheres.
- 42.** The respondent relies on the 2025 Notification, which is much subsequent to the Vacancy Notification-in-question, and is not applicable *per se*, to argue that the same provides for higher authorities than the licensing authority to be empowered to revoke licence. However, the provisions of a subsequent amendment, which is prospective in nature, and the modalities prescribed therein, cannot be used as an aid to interpret a previous notification. Although earlier provisions, which indicate the evolution of law, may still be used in certain cases as external aids to interpret

2. *Videsh Sanchar Nigam Ltd. and Anr v. Ajit Kumar Kar and Ors.*, reported at AIR 2009 SC 34



subsequent amendments, the converse is not true. Fact remains that in the present case, during the relevant period, it was the 2013 Control Order which was in force and the 2025 Control Order cannot be looked at to retrospectively interpret an earlier provision.

43. Thus, the position in law is that the 2025 Notification further makes it explicit that there was no revocation provision in the 2013 Control Order and we have to proceed on such premise to assess the powers of the licensing authority in that regard.
44. It is well-settled that where there is a silence in the statute (the Control Order of 2013 having statutory force), it is open to interpretation by the courts as to what would be the effect of such silence in a particular sphere of operation of the statute.
45. Considered from such perspective, the principles discussed above come into play, since the right to correct a *bona fide* error is implicit and inherent in the authority committing such error in the first place. Thus, a licence issuing authority also has a power to recall, recant or revoke a licence granted erroneously by it, in the event it is seen that the issuance was, in the first place, unlawful, illegal and *de hors* the threshold eligibility criteria of the Vacancy Notification under which such licence was granted.
46. As such, we are of the considered opinion that the licensing authority was fully empowered to correct its error in granting a licence to an entity which was not eligible to apply in the first place, particularly keeping in view the mandatory nature of the eligibility



criteria, as evident from the mandatory used in the concerned Vacancy Notification itself.

Whether the grant of dealership licence to the respondent was legal

47. The eligibility criteria are enumerated clearly in the preamble and in Clause 8 of the concerned Notification and as per Clause 1 thereof, applications are invited from individuals, registered partnership firms, registered co-operative societies, Sangha or Mahasangha and self-help groups.
48. Thus, although registered *co-operative* societies were included, other societies, registered under the Societies Registration Act, were excluded from the purview of the category of persons from whom applications were invited. Clause 8 of the Vacancy Notification stipulated the eligibility criteria. The said clause begins with the expression “applicant must fulfil the following eligibility criteria...”. the use of the word “must”, coupled with the following expression that the appellant “shall” be one of the following categories of individuals, makes it abundantly clear that the said eligibility criteria were mandatory and provide a threshold screening yardstick. Thus, any and every registered society would not be eligible unless it was specifically a registered *co-operative* society, which the respondent herein is admittedly not.
49. The respondent argues that, being not included within the prohibitory clause under Part-3, that is, Clause 9 (which mentioned



the types of persons who were not eligible to apply for licence of FPS Dealership), it ought to be construed that even ordinary registered societies cannot be debarred from applying. However, the mandatory eligibility criteria given at the outset of the Notification governing the threshold parameters of an applicant and the bar under Clause of the Vacancy Notification was in addition to the eligibility criteria. Thus, only upon an entity or person crossing the threshold eligibility criteria, which were mandatory as per the language in which it was couched in the Vacancy Notification, would the question of the further bar under Clause 9 be applicable. Hence, the entities mentioned in Clause 9 and the bar incorporated therein is not exclusive of the eligibility criteria but in addition thereto.

- 50.** The respondent has relied on a co-ordinate Bench judgment in *M/s. Sonai Food Marketing (supra)*³, which was rendered in the context of a different Vacancy Notification and *per se* cannot be a binding precedent for the present Vacancy Notification, the premises of which are different.
- 51.** Even if we give the widest amplitude in construing the said judgment, the context of an adjudication in the same was somewhat different than the present. In the said case, the question which fell for consideration was whether a company came within the ambit of “group of individuals as an entity”, the latter being one of the eligibility criteria. Just as the respondent in the present case, a

3. *MAT No. 562 of 2021 [M/s. Sonai Food Marketing Pvt. Ltd. & Anr. v. State of West Bengal & Ors.]*



company was not specifically debarred under the prohibition clause therein.

- 52.** In such circumstances, the co-ordinate Bench held that a company come within the broader purview of the expression “group of individuals as an entity”, which could not be restricted to natural persons. However, there is no similar logic available in the instant case to include ordinary registered societies within the eligibility criteria of the present Vacancy Notification dated December 11, 2023. Clause (a) of the eligibility criteria envisage individuals “permanently residing in the Domkal Sub-Division”. It is quite obvious that if a juristic entity was meant to be included under the said clause, the expression “residing in” would be entirely inappropriate. In such event, the expression “situated at” or “located in” would be more appropriate. Thus, Clause (a) clearly refers to biological entities or natural persons.
- 53.** Clause (b), conspicuously, provides for certain specific types of juristic entities, including registered partnership firms and registered co-operative societies as well as self-help groups. However, by specific exclusion, the category of entities which are registered under the Societies Registration Act, that is, ordinary registered societies which are not *co-operative* societies, have been kept outside the purview of the said clause. Whereas other similar categories of juristic entities, such as registered co-operative societies have been consciously mentioned, other ordinary societies have been deliberately left out. We do not find any general



expression such as “group of individuals as an entity”, as discussed in *M/s. Sonai Food Marketing (supra)*⁴, which could broadly include within its purview all registered societies. On the contrary, other similar registered entities, being registered partnership firms and registered co-operative societies have specifically been enumerated in Clause (b), by consciously leaving out other registered societies. The said choice was a conscious decision of the Executive amounting to a policy decision, which is ordinarily not tinkered with by courts unless a flagrant violation of law, the Constitution, or natural justice is made out. Hence, parity cannot be drawn between the ratio of *M/s. Sonai Food Marketing (supra)*⁴ and the present case. Thus, the reliance of the respondent on the said report is misplaced.

- 54.** The respondent also cites a licence being issued to another registered society under the self-same Vacancy Notification. However, such argument does not come to the aid of the respondent, since it is well-settled that no person can seek negative equality under the law or within the contemplation of Article 14 of the Constitution of India. As the cliché goes, “two wrongs do not make a right”. Thus, another illegality cannot justify the illegality in grant of licence to the present respondent.
- 55.** The argument that the grant of such licence to another entity itself shows that the authorities construed the eligibility provision to include registered societies is not acceptable. *Ipsso facto*, by faulty

4. *MAT No. 562 of 2021 [M/s. Sonai Food Marketing Pvt. Ltd. & Anr. v. State of West Bengal & Ors.]*



grant of licence to another entity not having the eligibility criteria does not comprise of a conscious waiver of the eligibility clause. If such an interpretation is to be lent to such second illegal action of the authorities, that itself would be a violation of the equality principle, since there might have been many others who are not registered co-operative societies but ordinary societies registered under the Societies Registration Act who could have applied to ask for a similar benefit. To construe the eligibility of an applicant, we cannot give a go-bye to the specific eligibility criteria of mandatory nature which are stipulated in the Vacancy Notification itself.

- 56.** Thus, seen from all perspectives, the respondent was not eligible at all to be granted FPS Dealership in the first place under the concerned Vacancy Notification and as such, its licence is subject to be revoked, being illegal *ab initio*.
- 57.** We also have to keep in mind that the argument of the grant of licence being recommended by a higher authority is neither here nor there, since the recommendation by a higher authority is not binding in nature and the call is ultimately taken by the licensing authority itself as to whether to grant a licence or not. The licensing authority, irrespective of such recommendation, is bound by the Vacancy Notification itself, since deviation of a mandatory eligibility criterion of the same would have the larger ramification of depriving similarly placed other prospective applicants of the benefit of relaxation. The recommendation by a higher authority, as the name suggests, is merely a 'recommendation' for a particular candidate,



which cannot override the specific mandatory provisions of the Vacancy Notification itself.

CONCLUSION

- 58.** In view of the above discussions, the appellant-authorities were justified in revoking the licence of the respondent by the order dated March 24, 2025.
- 59.** The learned Single Judge, with respect, misconstrued the provisions of the Vacancy Notification and the law governing the subject by setting aside the revocation of licence of the respondent on the ground that it was now a 'licensee', and not an 'applicant', despite having held that the licence was issued "not following the terms of the Vacancy Notification". By coming to such conclusion, the learned Single Judge failed to distinguish between the two clear and unrelated concepts – on the one hand of cancellation of a licence already granted to a licensee for post-licence irregularities committed by the dealer and, on the other, the ineligibility of a licensee in the first place, at the juncture when the licence was issued, which vitiates such grant at the threshold as *ab initio*, and renders the licence liable to be revoked/annulled/rescinded.
- 60.** In view of the above, MAT No. 835 of 2025 is allowed on contest, thereby setting aside the impugned judgment dated April 2, 2025 passed in WPA No. 7296 of 2025 and restoring the decision of revocation of the FPS Dealership Licence of the respondent by the



Sub-Divisional Controller (Licensing Authority) *vide* Memo No. 226/SCFS/DOM/2025 dated March 24, 2025.

- 61.** CAN 2 of 2025 is consequentially disposed of as well.
- 62.** There will be no order as to costs.
- 63.** Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)