

S/L 36
23.04.2021
Court. No. 6
GB

W.P.C.R.C. 18 of 2021
In
WPA 728 of 2018

Dr. Sabyaschi Acharya
Vs.
Sri Anirban Mondal & Ors.

(Through Video Conference)

Mr. Falguni Bandopadhyay.

...for the Petitioner.

*Mr. Sirsanya Bandopdhyay,
Mr. Swapan Banerjee,
Mr. Sougata Mitra.*

...for the alleged Contemnors.

Alleged contemnors are present in Court today.

This contempt application was filed alleging violation of the order of this Court dated February 20, 2019. By the order of this Court the petitioner, Dr. Sabyasachi Acharya was directed to be appointed as an Ayush Doctor in place of one Moumita Nandy, who was found ineligible after being selected. The Block Development Officer was directed to take necessary steps with regard to the approval or engagement of the petitioner as an Ayush Doctor. Accordingly a report has been filed, showing that the Block Development Officer found that the petitioner was eligible to be appointed as a part time Ayush Doctor (NRHM) in the Gram Panchayat and the Block Development Officer also passed an order that the post of Ayush Doctor at Sanka Gram Panchayat was lying vacant. It is submitted that, as per the guidelines, the Block

Development Officer being the selecting authority has already found the petitioner eligible to be selected and engaged as an Ayush Doctor. But the ultimate approval for engagement has to come from the Panchayat and Rural Development Department.

It is further submitted that the Zilla Parishad concerned is to take a resolution with regard to the order of selection passed by the Block Development Officer and after such resolution is adopted, the same would be forwarded to the Panchayat and Rural Development Department for final approval for engagement.

It is the contention of the Block Development Officer that although the petitioner is eligible to be selected and the post is lying vacant till date, he could not engage the petitioner as an Ayush Doctor as the final approval has not come from the appropriate department. The guidelines are taken on record, which support the contentions of the alleged contemnors.

Under such circumstances, nothing remains to be decided in this proceeding as the alleged contemnors have complied with their part of the order. Neither the Panchayat and Rural Development Department nor the Zilla Parishad were parties to the writ petition, nor are they contemnors before this Court and, as such, no further clarificatory and supplementary orders can be passed in a contempt proceeding against these authorities. The directions upon the Block Development Officer has been substantially

complied with as per the guidelines. The Court cannot direct the alleged contemnors to break the guidelines and engage the petitioner without the procedural approval required from the concerned department.

Thus, this Court although aware of the delay and inaction on the part of the authorities in giving the approval despite the order of this Court, cannot pass a mandatory order against them in a contempt proceeding.

The petitioner will be at liberty to file an appropriate writ petition against the authorities, who are responsible for not granting the approval to the appointment of the petitioner despite the selecting authority having found him eligible as per the order of this Court and the post is also lying vacant.

The contempt application is disposed of and the contempt Rule is discharged.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)