

23-03-2021
ct no. 13
Sl.171
sp

**WPA 5207 of 2021
(Through Video Conference)**

Mithu Let Rajbhar @ Mithu Let
-Versus-

The State of West Bengal & Ors.

**Mr. Prosenjit Mukherjee,
Mr. Arghya Kamal Das**

....for the petitioner

**Mr. Pantu Deb Roy, Ld. A.G.P.,
Mr. Anand Farmania**

...for the State

**Mr. Anjan Bhattacharya,
Md. Habibur Rahman,
Mr. Munjel Alam**

...for the respondent no. 10

The writ petitioner applied for the post of ASHA Karmee under the Nalhati – I Block. The selection process was undertaken in the year 2013. The process was completed in the year 2020. When the final list was published, the petitioner was ranked no. 2 and the private respondent no. 10 was ranked no. 1.

The private respondent was originally a resident of Sonarkundu under the Nalhati – I Block. She got married in the year 2004. She shifted to Khargram in Murshidabad to live with her husband.

A voter list being part no. 12 of the year 2016 for Khargram, Murshidabad indicates the private respondent came against Serial No. 377 GRY 2567634. Her husband's name is mentioned

as Baikuntha Let. However, in a subsequent list published in the same year the petitioner was mentioned at part no. 118 against Serial No. 974 bearing WDA 1900570. The petitioner had indicated her father's name Ananta Let thereat.

Owing to marital discord the private respondent, since the year 2013, has been residing with her father under Nalhati – I Block at Village Sonarkundu.

Both the petitioner and the private respondent participated in the process of recruitment to the post of ASHA karmee in the year 2013 itself. Admittedly, in the year 2013, the private respondent's Voter Identity Card (EPIC) was registered under the Khargram Constituency at Murshidabad.

Notwithstanding, the aforesaid private respondent was allowed to participate in the process of recruitment and was placed against Serial No. 1 in the list of successful candidates.

The writ petitioner filed WPA 7081 of 2020 challenging the appointment of the private respondent and complained by representation to the SDO, Rampurhat Sub-Division which was not considered. The writ petition was disposed of by order dated October 16, 2020 by a Co-ordinate Bench of this Court directing the said SDO to consider and dispose of the representation.

The SDO, Rampurhat by order dated January 27, 2021 disposed of the representation of the petitioner and upheld the order of the private respondent no.10. The writ petitioner challenges the said order in this proceeding.

It appears from the order impugned that the SDO, Rampurhat bent backwards to uphold the appointment of the private respondent no.10. He has said that the private respondent who admittedly did not submit a Ration Card or Voter Identity Card (EPIC) to indicate the residence within the Nalhati – I Division was not debarred from participating in the process. People at a rural area, according to the SDO take time to obtain fresh Voter Identity Card (EPIC) since after change of residence. He has referred to his own experience as an Electoral Officer for 7 years in this regard.

Across the bar, counsel for the private respondent has relied upon a certificate issued by the Pradhan of the Bautia Gram Panchayat under Nalhati – I Samity as also a receipt of obtaining provisions from a Fair Price Ration Shop, Nalhati dated March 9, 2021 to show that she is a resident thereat. A Voter Identity Card (EPIC) of the year 2015 indicating residence at Sonarkundu, Nalhati. Showing her father's name is also produced. Although it is stated at the bar that the documents have been produced, none of

the aforesaid documents have been dealt with by the SDO, Rampurhat in the impugned order.

The reason behind the shifting of the private respondent from Murshidabad to Nalhati has also not been discussed.

Be that as it may, what is clear and evident before this Court is that as on December 20, 2013, the private respondent did not have a Voter Identity Card (EPIC) or a Ration Card to indicate that she was a resident of Sonarkundu, Nalhati – I Block.

The private respondent's application in terms of the Revised Guidelines for Selection of ASHA karmee dated June 27, 2012 should have been straightway rejected. The question of her participation in the selection process or being successful thereat did not and could not have arisen.

There is no need to enter into any subsequent event or the reasons therefor in view of the original disqualification of the private respondent as indicated hereinabove.

For the reasons stated hereinabove, the impugned order dated January 27, 2021 shall stand quashed and set aside. The appointment order dated March 23, 2020 issued to the private respondent for the post of ASHA karmee shall also stand quashed and set aside.

Since, the petitioner admittedly has been ranked no. 2 in the list, the SDO, Rampurhat, Birbhum shall within a period of 7 days from the date of receipt of a copy of this order, issue appointment order to the writ petitioner.

With the aforesaid observations, the instant writ petition is allowed and disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)