

BR/cm 14.6.
19 2021

W.P.A 10535 of 2021

Dr. Anindita Banerjee

-vs-

**The Indian Council of Medical Research & Ors.
(Via Video Conference)**

Mr. D.N. Roy,

Mr. Sourav Halder

.... For the petitioners

Mr. Chaitali Bhattacharya,

.... For the Respondents.

Affidavit of service is kept on record.

Heard the learned Advocates for the parties.

The case of the petitioner is that she has been selected for the post of Scientist-E (Medical) at the Indian Council of Medical Research, annexed appointment letter being Annexure P-4 at page 32 of the writ petition and has made a prayer before the Director of Health Services, West Bengal being Respondent Nos. 4 and 5 for her release from the post of Medical Officer which has not been considered till date. Petitioner has also annexed a further representation dated 22nd April. 2021 made before the Director of Health Services, respondent No.5 and the Secretary to the Government of West Bengal in Health and Family Welfare Department, respondent No.4. Petitioner also submits that at present Tribunal is not functioning because of Pandemic situation and under the compelling circumstances the petitioner having no remedy, has approached this writ Court for relief of direction upon the

State/respondents to consider her representations.

Learned Advocate appearing for the State/respondent submits that writ does not lie before this Court and it lies before the Division Bench. I fail to understand as to how the writ Court has got no jurisdiction over the inaction on the part of the State authority who is sitting over the representation of the petitioner and not passing any order and more so neither any proceeding nor any order of the Tribunal is the subject matter of this writ petition. Writ Court has ample power to interfere and pass order in case any authority of the State not carrying its duty or sitting over the representation of a citizen and the stand of the learned State advocate is not appreciable since it is admitted position that the State Tribunal is not functioning at present due to Covid-19 and that the aforesaid representation of the petitioner is still pending and has not been disposed of and the petitioner has got no remedy. Still the stand of the learned advocate for the State-respondent in spite of the aforesaid facts and circumstances that remedy of the petitioners is only before the Tribunal or before the Division Bench of this Court is quite strange and not appreciable.

Considering the submission of the parties, this writ petition is disposed of by directing the respondent no. 4 to consider and dispose of the aforesaid representation of the petitioner dated 22nd April, 2021` as appears at page no.

29 of the writ petition, within two weeks from the date of communication of this order by passing a reasoned and speaking order. Let it be recorded that this Court has not gone into the merit of the case and respondent is free to decide the case on its own merit strictly in accordance with law.

Respondent no. 4 shall communicate his decision to the petitioner within three days from the date of his making such decision.

WPA No. 10535 of 2021 is disposed of.

The respondent is directed to act on the server copy of this order.

(Md. Nizamuddin, J.)