

WPA(P) 183 of 2021

**Gajibur Rahaman Sekh
Vs.
The State of West Bengal & Ors.
(Through Video Conference)**

Ms. Joveria Sabbah
Mr. Saswata Sarkar
Mr. Bodhisatya Ghosh

... ... for the petitioner

Mr. Tapan Kumar Mukherjee, Sr. Advocate
Mr. Amritalal Chatterjee

... ... for the State

The petitioner is a Gachhi who earns his living by climbing on tress and cutting nuts/coconuts/jaggery juice etc. and also cutting palm/coconut/nut/jaggery and his life is always at risk.

The petitioner has approached this Court with a plea that the members of the petitioner's community should be extended the benefit of 'Samajik Suraksha Yojana', 2017 (for short, the Scheme of 2017).

The record reflects that the Scheme of 2017 has been notified by notification dated 12th October, 2017. Clause 4.0(b) of the Scheme enumerates the beneficiaries which consist of 46 unorganized industries and 15 self-employed persons under occupation mentioned under Part B of the Scheme.

Clause 5 of the Scheme contains the eligibility criteria, which reads as under:

“In order to be eligible to apply for registration and getting benefits under the scheme a beneficiary should conform to the following criteria-

- (a) He/She must be a resident of West Bengal.
- (b) He/She should be between 18-60 years of age.
- (c) His/Her family income should not exceed Rs.6,500/- per month except construction & transport workers. For construction & transport workers family income has no upper limit.
- (d) The period for calculation of average family income will be 12 months prior to the month in which application is made.”

The submission of learned counsel for the petitioner is that the petitioner fulfilled all the eligibility conditions which are mentioned in the Scheme. He has not been included in the Scheme though other such self-employed persons such as idol makers, waste pickers, street hawkers including newspaper hawker, workers of NGOs, cycle rickshaw and van puller/paddler, domestic servants etc. have been included under the Scheme.

Learned counsel for the petitioner has submitted that the petitioner is a poor person and in need of the benefit from the Scheme, yet it has not been extended.

Learned counsel for the State has referred to the communication dated 18th May, 2021 sent by the Inspector Minimum Wages, DLC(P) which shows that the Gachhis do not come under the Scheme, therefore, they are not found entitled to enroll themselves under the Scheme.

The issue in respect of the entitlement of the petitioner for inclusion in the Scheme is required to be considered by the competent authority having due regard to the fact that other self-employed persons of similar nature are already covered.

Learned counsel for the petitioner has pointed out that the petitioner's representation at page 65 of the petition is already pending before the Secretary.

On perusal of the said representation, we are of the view that a detailed comprehensive representation should be filed by the petitioner so that the concerned Secretary can duly look into the issue with sympathetic consideration as also having regard to nature of employment.

Learned counsel for the State has also agreed that if such a representation is filed by the petitioner, the same will be duly considered.

Hence, we dispose of the present petition granting liberty to the petitioner to file a comprehensive representation along with all the details before the Secretary, Labour Department, Government of West Bengal with a prayer for inclusion of the petitioner in the Scheme of 2017. If such a representation is filed by the petitioner, an appropriate decision will be taken by the concerned Secretary having due regard to the observation made above within a period of three months from the date of receipt of the representation.

WPA(P) 183 of 2021 is accordingly disposed of.

Photostat certified copy of this order, if applied for,
be given to the parties upon compliance of all formalities.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)