

20.01.2021.
Item no. 38.
Court No.13
ap

**W.P.A. No. 11056 of 2020
(Through Video Conference)**

**Smt. Rita Roy (Maity)
Versus
The State of West Bengal & Ors.**

Mr. Lal Ratan Mondal,
Mr. Dilip Kumar Sadhu.

...For the petitioner.

Mr. Arjun Ray Mukherjee,
Mr. Joydeep Acharya.

...For the State.

Affidavit-of-service and the notice dated 18th
January, 2021 filed in Court today be taken on record.

The writ petitioner has been litigating before this
Court since the year 2006.

The facts of the case in brief are that the
petitioner applied for the post of Auxiliary Nurse-cum-
Midwife in the year 2006 pursuant to a notice issued
by the District Authorities under the National Village
Health Mission by the District Family and Welfare
Authority at Narayangarh in Paschim Medinipore in a
printed form application obtained by her.

The petitioner claims to have submitted her
Voter's Identity Card, Ration Card and EPIC Card. Her
case was initially rejected by the authorities on the
ground that she had not submitted the proof of
residence, marital status and that her husband's
name was not there on the Voter's Card and Ration
Card. Rejecting the contention of the authorities a Co-

ordinate Bench of this Court vide order dated 22nd January, 2008 passed in W.P. No. 28389 (W) of 2006 (Smt. Rita Roy (Maity) – Vs. – The State of West Bengal & Ors.), directed the District Magistrate, Paschim Medinipore to reconsider the petitioner's case.

The District Magistrate, Paschim Medinipore vide order dated 20th March, 2008 found on the basis of the documents and records submitted by the C.M.O.H. Narayangarh as available with the concerned Block Development Officer that the petitioner did not submit copies of the Ration Card and EPIC Card along with her application dated 29th November, 2006.

It is further recorded that she had only submitted a certificate issued by the Prodhan of Ranisarai Gram Panchayat as regards proof of residence.

By a further order dated 2nd December, 2019 passed in W.P. No. 16842 (W) of 2008 (Smt. Rita Roy (Maity) – Vs. – The State of West Bengal & Ors.) a Co-ordinate Bench of this Court set aside the order dated 20th March, 2008 and remanding the matter back to the District Magistrate, Paschim Medinipore for consideration afresh and giving reasons.

By an order dated 17th January, 2020, the District Magistrate, Paschim Medinipore once again rejected the case of the petitioner on the same ground as the earlier order of his office.

This Court finds from the facts that the petitioner submitted her application by dropping in a box prescribed therefor with the concerned authority.

There is no way of verifying the claim of the Medical Officer, Narayangarh or the Block Development Officer, Narayangarh that the petitioner did not furnish the Ration Card or the Voter's identity card/EPIC Card.

Admittedly, there is no document available to disprove the contention of the petitioner either in the records of the Block Development Officer, Narayangarh or the Medical Officer, Narayangarh or the State.

On the contrary, Annexure – P/2 at page 28A, which is the voter's list for the State Election prepared in the year 2006 indicates that the petitioner's name is available at Serial No. 1162 and her husband's name is available at Serial No. 1161.

It is indeed true that the post of Auxiliary Nurse-cum-Midwife is contractual for a limited period. The period may have expired by this time but the writ petitioner has been continuously litigating before this Court in the year 2006.

Delay and disposal of the second writ application of the petitioner filed in the year 2008, cannot be attributed to her.

In those circumstances, considering the above peculiar facts of the case and as an exception, without creating any precedent, the District Magistrate,

Paschim Medinipore is directed to engage the petitioner in the post of Auxiliary Nurse-cum-Midwife in Kutki Sub-Health Centre.

The already recruited and working private respondent shall not be disturbed in her position.

The petitioner shall be entitled to work for the same period that she would have been entitled to, had she been engaged in the year 2006. The petitioner's remuneration and benefits shall commence only from the date she commences her work.

With the above order, the instant writ application shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertakings.

(Rajasekhar Mantha, J.)