

28.01.2021
Ct. No.13
Sl. No.45
akd

W.P.A. 11894 of 2020 [via video conference]

[Dr. Sushovan Paul & Ors. -Vs- State of West Bengal & Ors.]

Mr. Pradip Kumar Das
Mr. Amit Kr. Chakraborty
Mr. K. K. Baral

... .. for the petitioners

Mr. Sirsanya Bandyopadhyay
Ms. Sudeshna Das

... .. for the State

Mr. Nilanjan Bhattacharjee
Ms. Mrinali Majumdar

... .. for respondent no.4

Pursuant to order dated 21st January, 2021, State is represented.

Mr. Sirsanya Bandyopadhyay, learned advocate appearing for the State submits that the central government by, inter alia, communication dated 25th May, 2017 has merely issued guidelines for the purpose of filling up the post of Community Health Officers (CHOs). The said guidelines are not pending rules. He has also placed certain portions of the Guidance Note for States/UTs where the post of CHO can be filled up by nurses or Ayurveda Practitioners. He then refers to page 32 of the writ petition and other places to indicate that even the central government in the guidelines for the recruitment process has made separate formats for application by Ayurveda Practitioners and nurses.

In so far as the example of the State of Rajasthan and the decision of the High Court of Rajasthan relied upon by the learned advocate for the petitioners is concerned, the learned advocate for the State submits that the fact scenario of

recruitment and the source, qualification and eligibility criteria for the post of CHO would vary from State to State by reason of the population, educational levels, economic levels and various other factors. It is in furtherance of this diversity between States that the central government has chosen to issue only guidelines for the State to implement as per the facts and circumstances emerging thereat respectively.

It is also submitted by Mr. Bandyopadhyay that the State of West Bengal in the subject recruitment process to fill up 5250 vacancies for the post of CHO has chosen only nurses in view of the huge volume of qualified nurses available in the State. He further submits that the specification of nurses only in this recruitment process is not meant to exclude Ayurveda Practitioners in recruitment process of CHOs. He submits that there are an equal number of vacancies still available in the State for the post of CHO which shall be advertised for recruitment in future and the Ayurveda Practitioners would definitely be considered for the said post or any similar post in that category.

In the above facts and circumstances, this Court cannot fault the recruitment process and the eligibility criteria restricted to nurses for the post of CHO, being undertaken by the State pursuant to the Memorandum dated 11th July, 2018.

In the next process of recruitment, after due consideration of all factors including the financial condition and the budgetary allocation for filling up the post of CHO, the State shall definitely consider filling up the said post by Ayurveda Practitioners also, as clarified by the learned advocate appearing for the State.

With the aforesaid observations, the writ petition is, disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rajasekhar Mantha, J.)