

**02.05.2022**  
**Sl. No.6**  
(PP)

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 1424 of 2022**

**Mafruza Bibi @ Mafruja Khatun Bibi**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Arjun Mookherjee

....for the petitioner.

Mr. Tapan Kumar Mukherjee, AGP,  
Mr. Somnath Naskar

....for the State.

The petitioner had applied for being engaged as Accredited Social Health Activist (in short, ASHA) for the Sub-centre under Kapasdanga Gram Panchayat. There were three vacancies in Ramdaspur Sub-centre under Kapasdanga Gram Panchayat. One Sub-centre was for Jafrabad and two others for the village Nesta-Kuoldanga. The petitioner's voter card issued on 23<sup>rd</sup> August, 2013 and annexed at page 27 of the writ petition shows that the petitioner is a resident of Kuoldanga, Nesta, Murshidabad, 742101. The petitioner was successful in the selection process and was issued a proforma for issuing engagement letter to ASHA on 28<sup>th</sup> March, 2018. In the said letter which appears at page 9 of the report filed by the respondent no.8, it is apparent that the petitioner was provisionally selected as ASHA for Ramdaspur Sub-centre under Kapasdanga Gram Panchayat. The petitioner was asked to approach the Secretary, Block Health and Family Welfare Samity of the Block wherein she resides between 28<sup>th</sup> March, 2018 and 31<sup>st</sup> March, 2018. The petitioner says that she had reported to the Secretary of the Block within the specified timeline. After scrutinizing the petitioner's

document, the petitioner was not given the engagement. By a letter dated 31<sup>st</sup> March, 2018, the Block Medical Officer of Health, Jiaganj R.H.M.J Block, Murshidabad, informed the petitioner that it is not possible to allow the petitioner to join for mismatching the petitioner's residential address and the approved Sub-centre.

After going through the writ petition, the report filed on behalf of the State respondents and an exception described as affidavit-in-reply on behalf of the petitioner as well as a document filed on behalf of the State signed by the Block Medical Officer, Health, Jiaganj, Rural Hospital, Murshidabad, I find that for Kapasdanga Sub-centre, residents of four census village are eligible to apply. Each of the census villages comprises of sub-villages. For Kapasdanga Sub-centre, residents of sub-village - Kuroidanga, Nesta and Kapasdanga, Maniknagar can apply. The petitioner is admittedly a resident of Kuroidanga village under Kapasdanga Gram Panchayat. The petitioner, therefor, is entitled to be considered for Kapasdanga Sub-centre.

On the other hand, it appears that for Ramdaspur Sub-centre, residents of census village Ramdaspur, Bhatpara, Jafrabad, Kamalpur, Ransagar are entitled to apply. The advertisement against which the petitioner participated and was selected shows that there were three vacancies under Ramdaspur, out of which one vacancy was to be filled up from the residents of Jafrabad and two vacancies to be filled up from the residents of village – Nesta-Kuroidanga. As per the said advertisement, the petitioner, being a resident of Kuroidanga, is entitled to be considered for Ramdaspur Sub-centre which

was required to be filled up from the residents of Nesta and Kuroidanga. This advertisement is contrary to the subsequent document dated 23<sup>rd</sup> April, 2022. In the said document as stated hereinabove, vacancy for Ramdaspur Sub-centre cannot be filled up from the residents of Nesta and Kuroidanga. The petitioner cannot be blamed for the mistake committed on the part of the State in disclosing wrong vacancy position with incorrect eligibility criteria. The petitioner, having been selected and issued engagement letter in the year 2018, cannot be victimised for any incorrect eligibility criteria published in the advertisement.

I am told that at present there is a vacancy in respect of Kapasdanga Sub-centre, for which the petitioner, being a resident of Kuroidanga, is entitled to apply and get an engagement.

In the aforesaid facts and circumstances, I direct the respondents to issue fresh engagement letter to the petitioner for Kapasdanga Sub-centre and permit the petitioner to work in the vacancy presently lying for Kapasdanga Sub-centre. The engagement letter shall be issued to the petitioner by the competent authority within four weeks from date.

Since the respondents are represented, no further notice is as such required, but for abundant caution, I direct the petitioner to serve a server copy of this order on the respondents and the respondents shall act on the basis of the server copy of the same without insisting upon production of a certified copy thereof.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

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

**(Arindam Mukherjee, J.)**