

86.
05.12.2022
S.D.

W.P.A. 2501 of 2022

Smt. Kabita Roy Bera
Vs.
The State of West Bengal & Ors.

Mr. Kamal Mishra
Ms. Rimpay Mukherjee
Mr. Pratap Sanfui

....For the petitioner

Ms. Chama Mookherji, Sr. Adv.,
Mr. Siraj Gooptu

...For the State

In this writ petition, the petitioner has challenged the action of the Board Secretary and Director, Selection Committee, Child Rights and Trafficking, West Bengal. The petitioner claims that the recruitment has been done in terms of the notice for recruitment dated January 28, 2021 vide Memo No. 46 issued by the Directorate of Child Rights and Trafficking, Department of Women and Child Development and Social Welfare, Government of West Bengal. As per the, said notice for recruitment, the residence of the candidate was stipulated as below:-

“Residence: the candidate must be a resident of the district/Region for which he/she is an applicant”.

The petitioner claims to be a candidate belonging to the Sunderban Region and therefore eligible to be considered for appointment. Some of the private respondents who have been appointed do not belong to the Sunderban Region as stipulated in the Jurisdiction Clause.

The Jurisdiction Clause relating to “*Sunderban Region*” in the said recruitment notification as set out herein below:

“Jurisdiction of CWC Sundarban Region: Part Areas under Diamond Harbour, Kakdwip and Canning Subdivision under South 24 Parganas comprising of areas under 17 police stations namely Kulpi PS, Mandirbazar PS, Mathurapur PS, Raidighi PS, Dholahat PS, Kakdwip PS, Sagar PS, Namkhana PS, Patharpratima PS, Frezerganj PS (Coastal), Ganga Sagar PS (Coastal), Gobardhan PS (Coastal), Harwood Point PS (Coastal), Canning PS (Coastal), Jibantala PS, Basanti PS and Gosaba PS under South 24 Parganas”.

Ms. Mukherjee, learned counsel appearing on behalf of the petitioner submits that all the four candidates who have been appointed as per the Recruitment Notification dated January 28, 2021 were not the residents of the police stations that was stipulated by the Jurisdiction Clause of the recruitment notification. She submits that the said recruitment was made in violation of the conditions stipulated in the notice for recruitment. All the four candidates who have been appointed are added as party respondents to the present proceeding.

Mrs. Chama Mookherji, learned counsel appears on behalf of the State respondents submits that there is no violation of the recruitment notice dated January 28, 2021. The only condition for eligibility was that the candidate had to reside within the district/region for which he or she was entitled to apply. The jurisdiction clause only refers to the operational area where the selected candidates would be expected to perform their duties. The jurisdiction of the CWC, "*Sunderban Region*" has no nexus with the clause relating to the residence of the candidates. A report has been handed over in Court by her from the Directorate of Child Rights and Trafficking, West Bengal. From the report, it appears that all the candidates who have been selected are appointed on the basis of viva-voce marks. There is no written examination. Furthermore, there is no tabulation made of the marks granted to each of the candidates after taking into consideration the division of the marks that has been set out as guidelines for awarding the same by the Minutes of the meeting held on July 31, 2021.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds no clarification with regard to the fact that it is only the operational area that has been referred to and not the

residential area in the jurisdictional clause of the recruitment notice. This Court is of the view that the word “**Region**” stipulated in the ‘Residence’ Clause of the recruitment notice has been clarified in the next clause relating to the jurisdiction of CWC “*Sunderban Region*”. Under the Jurisdiction Clause, 17 police stations would be considered. Therefore, any member/candidate not belonging to the 17 police stations of the “*Sunderban Region*” could not be considered for appointment to the post of CWC member by the notice for recruitment dated January 28, 2021. The clause with regard to the jurisdiction has to be read in conjunction with the clause relating to residence. The clause with regard to jurisdiction cannot be subsequently interpreted to relate to only operational areas and not to the clause relating to residence without the same being expressly spelt out in the recruitment notice. Furthermore, the respondents have also failed to bring on record in their Report on Affidavit where the petitioner stood in the merit panel vis-à-vis the other candidates.

In the circumstances, any appointment given in violation to the residence/jurisdiction clause of the notice for recruitment dated January 28, 2021 is set aside and/or cancelled. The petitioner’s application for recruitment is to be considered in accordance with the recruitment notification

dated January 28, 2021 and in the light of the discussions above, within four weeks from date and a reasoned order be communicated to the petitioner within two weeks thereof by the Director, Child Rights and Trafficking, West Bengal.

With the directions aforesaid, **W.P.A. No. 2501 of 2022** is **disposed of**.

The written instruction handed over in Court today be retained with the records.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

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

(Lapita Banerji, J.)