

D/L
Item No. 11
02.05.2022
KOLE

**FMA 465 of 2021
With
IA No. CAN 1 of 2021
With
IA No. CAN 2 of 2021**

**Mamoni Bhanja Barman
-Vs.-
The State of West Bengal & Ors.**

*Mr. Dilip Kr. Saha,
Mr. A. Sarkar,*

... for the appellant.

Mr. R. Halder,

... for the respondent no. 9.

In Re: CAN 1 of 2021

This is an application for condonation of delay of 99 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

CAN No. 1 of 2021 is accordingly disposed of.

In Re: FMA 465 of 2021 with CAN 2 of 2021

By consent of the parties the appeal and the application are taken up for hearing together.

This appeal is directed against a judgment and order dated July 2, 2020, whereby WP No. 5697 (W) of 2020 and a connected application were disposed of.

It appears that the present appellant, who was the respondent no. 9 before the learned Single Judge, was selected as “Asha Karmee”. Alleging that the panel that was

prepared and on the basis of which the present appellant was appointed, was not prepared in accordance with law, the present writ petitioner had approached this Court by filing WP No. 20774 (W) of 2019. By an order dated November 21, 2019, a learned Single Judge directed the concerned Sub-Divisional Officer (in short 'the SDO') to consider the complaint made by the present writ petitioner and take a reasoned decision thereon. Pursuant to such order, the relevant SDO heard all the concerned parties and passed an order dated February 25, 2020 holding that the panel was indeed not prepared in accordance with law and had to be set aside.

The present writ petition was filed for implementation of that order dated February 25, 2020. The writ petitioner said before the learned Single Judge that the SDO was not implementing his own order. The learned Judge passed the order impugned, directing the SDO to take immediate steps in terms of the order dated February 25, 2020. Being aggrieved, the private respondent before the learned Single Judge has come up in appeal before us.

Learned Advocate for the appellant says that the order was passed *ex parte* by the learned Single Judge. The appointment of the appellant has been cancelled by giving effect to the SDO's order dated February 25, 2020. She says that it was not her fault that she was placed in a district which was not where she should have been placed. She has been penalized for no fault of her own.

We have heard learned Counsel for the parties. Learned Advocate for the writ petitioner could not satisfy us that there was actual service of the writ petition on the present appellant. However, we do not see what the present appellant could have submitted before the learned Single Judge. The only issue was implementation of an order passed by the SDO. So long as such order stands, the same ought to be implemented. We are told that the same has already been implemented and the appellant has been removed from the job of Asha Karmee.

We are not able to grant any relief to the appellant. However, the appellant will be at liberty to challenge the order of the SDO dated February 25, 2020 if she is entitled to do so in law before the appropriate forum.

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Kausik Chanda, J.)