

56.  
18-05-2022  
debajyoti  
(Ct. no.06)

**MAT 413 of 2021**  
+  
**IA NO:CAN/1/2021**

**State of West Bengal & Ors.**  
**Vs.**  
**Sabina Easmin & Ors.**

Mr. Amitesh Banerjee, Id. Senior Standing Counsel,  
Mrs. Munmun Tewary  
... For the Appellants/State.

Mr. P. S. Deb Barman,  
Mr. Srikanta Datta  
... For Respondents/Writ  
Petitioners.

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

Affidavit-in-Opposition to the stay petition filed on behalf of the writ petitioners/respondents be taken on record.

The writ petitioners had approached the learned Single Judge with the case that although a panel had been duly prepared on June 02, 2011, for appointment of candidates to 13 posts of 'ASHA' in respect of Srangpur Gram Panchayet, no appointment was being made. The petitioners said that their names were included in the panel and, therefore, they had a right to be appointed. They wanted effect to be given to the said panel.

The learned Single Judge recorded in the order impugned that learned State advocate submitted that if no appointment had been given by the authority pursuant to the panel prepared on June 02, 2011, in respect of the said Gram Panchayet, then direction may be given to the respondent authorities to take steps within a specific

period. The operative portion of the order impugned reads as follows:

“ Considering the submissions as advanced by the learned Advocate appearing for the parties and after perusing the records, I direct the Chief Medical Officer of Health, Murshidabad, the respondent no.8 to take steps for giving appointment to the petitioners in the posts of ASHA in respect of the said Srangpur Gram Panchayet in accordance with law pursuant to the panel prepared on 2<sup>nd</sup> June, 2011 without any further delay but positively within four weeks from the date of communication of this order. ”

The State is in appeal before us. Mr. Banerjee, learned Senior Standing Counsel, appearing for the State, says that the panel in question was cancelled by the concerned District Magistrate. Hence, it is impossible to give effect to such panel and to carry out the order under appeal.

Learned advocate for the writ petitioners submits that the panel was never cancelled. There was only a suggestion by the concerned District Magistrate that the panel should be cancelled, but that was not, in fact, done.

We are not inclined to go into those factual disputes. As the order stands, we find no infirmity in it. Based on the submission made on behalf of the State, the order was passed. However, if the State is right in saying that the panel in question was cancelled, the State may bring such fact to the attention of the learned Single Judge by way of an appropriate application for review or any similar application.

We are not in any manner accepting or adjudicating upon the correctness or otherwise of the submission made

on behalf of the State before us. If the learned Single Judge is approached with an appropriate application, the same may be decided in accordance with law.

We see no reason to interfere with the order under appeal. The appeal and the connected application are, accordingly, dismissed.

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

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

**(Subhendu Samanta, J.)**

**(Arijit Banerjee, J.)**