

05.09.2022
Sl. No.11
srm

W.P.A. No. 7518 of 2022
Mina Sarkar Biswas & Ors.
Vs.
The State of West Bengal & ors.

Mr. Bikash Ranjan Bhattacharya,
Mr. Jamiruddin Khan,
Ms. Sayanti Sengupta

....for the Petitioners.

Mr. Jahar Lal De,
Mr. Supratim Dhar,
Ms. Sanjukta Samanta

.....for the State-respondents.

The petitioners, 42 in number, have challenged a list/panel of *Anganwadi* Helpers, which had been published on March 1, 2011 being annexure P/5 at page 107 of the writ petition. It is the specific contention of the petitioners that the list/panel, which has been annexed at page 107 of the writ petition, was prepared illegally. The actual list of successful candidates, which had been prepared by the selection committee on March 1, 2011 had been ignored. The other panel which the petitioners rely upon and in which, the names of the petitioners had been listed, is annexure P/3 at pages 98 to 103 of the writ petition.

According to the petitioners, the entire system was flawed, irregular and contrary to law. It is prayed that the

panel being annexure P/3 be implemented and the panel being annexure P/5 be set aside, upon taking into account the irregularities. The ambiguous decision of the Child Development Project Officer, Bamangola dated June 19, 2013, has also been assailed.

Mr. Bhattacharya, learned Senior Advocate appearing on behalf of the petitioners, refers to the decision of the Child Development Project Officer and submits that the only reason that was assigned for the non-implementation of annexure P/3 was non-approval by the selection committee. Whereas, the same committee approved the subsequent panel being annexure P/5 without referring to the fate of the other panel.

Having found such discrepancies to be relevant, a co-ordinate Bench had directed the State authorities to come back with a composite report. Such report was filed before Her Lordship and Her Lordship had directed the parties to file their exceptions.

Today, the exception to the report has been filed by the petitioners and the same is taken on record.

Mr. De, learned Additional Government Pleader, refers to paragraph (viii) of page 9 of the report and submits that annexure P/3, that is the alleged panel/list allegedly prepared by one Mr. Khagen Murmu, was not a

part of the records. The petitioners, whose names had figured in the said panel, were never selected. The very existence of the panel has been denied by the State authorities.

Mr. De further refers to paragraph (vii) of the report and submits that the other group of candidates, whose enlistments in the panel (annexure P/5) have been challenged in this writ petition, moved WPA 4474 of 2022, *inter alia*, challenging the postponement of their appointment, *vide* memo No.58/ICDS/BG. The Director of ICDS, West Bengal had made certain queries with regard to the appointments of those persons.

The candidates whose enlistment in the panel have been challenged by the petitioners, were not allowed to join their duties despite appointment letters having been issued in their favour by the Child Development Project Officer. They were aggrieved by an order dated March 2, 2022 issued by the Child Development Project Officer, Bamangola. Their appointments had been kept in abeyance. During the hearing of WPA 4478 of 2022, the learned Advocate for the State-respondents produced a document to show that there were various irregularities in the process of issuance of appointment letters to 99 candidates as *Anganwadi* Helpers. The Director of ICDS,

West Bengal wrote a letter to the District Magistrate requesting an enquiry with regard to the irregularities in the appointment of those candidates. The queries of the Director of ICDS, West Bengal were recorded in the order of this Court passed in WPA 4474 of 2022 dated May 10, 2022 as follows:-

“The Director of ICDS, West Bengal raised some queries, which are as follows:

- (a) Whether the appointment letters were issued in accordance with the 100-point roster?
- (b) When the Court had directed the representation of 29 writ petitioners of WPA 1080 of 2022 to be considered, what prompted the Chid Development Project Officer, Bamangola ICDS Project, Malda to issue appointment letters to 99 candidates?
- (c) Whether the panel was approved by a selection committee at a properly convened meeting.
- (d) Why the Chid Development Project Officer, Bamangola ICDS Project, Malda, who had issued the appointment letters and then postponed the appointment, could not detect the irregularities earlier.
- (e) One Kader Mondal was allegedly was involved in the process, whose antecedents should be verified.”

The said writ petition was disposed of by this Court, with the following orders:-

“Under such circumstances, the writ petition is disposed of with a direction upon the District Magistrate, Malda to cause an enquiry, as requested by the Director of ICDS, West Bengal by his letter dated May 3, 2022 and pass necessary orders and take such action in accordance with law. A representative of the petitioners shall also be allowed to participate in such enquiry and make

submissions with supporting documents in support of their claims.

The allegations raised in this writ petition are not decided on merits and the petitioners shall be entitled to raise all such issues after conclusion of the enquiry, if the occasion so arises.

The enquiry will be completed within a period of two months from the date of communication of this order and the copy of the report shall be supplied to the writ petitions and other interested parties. If the appointments are found to be in accordance with law, steps shall be taken to give effect to the appointment letters. If the selection/appointments were irregular, then reasons shall be disclosed in the report.”

Accordingly, as per the direction of the Court, a comprehensive and thorough enquiry was made by the District Magistrate, Malda. The District Magistrate, Malda has opined that the panel reflecting the individual marks of the selected candidates, which was approved by the selection committee, could not have been prepared as the panel was published when the Model Code of Conduct/Notification for holding the General Election to the West Bengal Legislative Assembly had already come into force. The meeting of the Project Level Selection Committee, Bamangola ICDS Project, Malda held on March 1, 2011 and the decision resolved on that day were nullity, as the same were done without the leave of the Election Commission of India. It was found that the Child

Development Project Officer, Bamangola had disregarded the communication in this regard.

Under such circumstances, the grievances of the petitioners have been addressed. The panel (annexure P/5), which was prepared on March 1, 2011 and which is the subject matter of challenge in the writ petition, was considered and found to be a nullity. It was the specific finding of the District Magistrate that due to publication of the Model Code of Conduct no panel could have been prepared on March 1, 2011.

By the decision of the District Magistrate, Malda, the entire process has been annulled and nothing survives. The claim of those candidates for appointment, was also rejected by the District Magistrate. It is also on record that although the candidates were granted appointment letters, those appointment letters were thereafter kept in abeyance and none had joined the post.

The writ petition is, thus, disposed of as the challenge of the petitioners has been addressed.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)