

12.12.2022

Item No.12

Crt. No.11.

KB

**MAT 748 of 2022
with
IA No. CAN 1 of 2022**

**Lilawati Kumari and others
Versus
The State of West Bengal and Ors.**

Mr. Sufi Kamal
Ms. Shireen Hossain
.... For the Appellants.

Mr. Santanu Kumar Mitra
Ms. Sonal Sinha
.... For the State Respondents.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

The dispute in this appeal pertains to the participation of the appellants/the writ petitioners for selection as ASHA Karmees in the District of Malda. Chanchal Sub-division.

By the Order of the Hon'ble Appellate Court dated 8th August, 2022, a Report was called for by this Court from the District Magistrate, Malda explaining the position as to why the claims of the writ petitioners/the present appellants were rejected even prior to consideration of their objections invited in the selection process.

By the said Order dated 8th August, 2022, the Hon'ble Division Bench noticed the position of facts that

the writ petitioners/the present appellants were not granted the opportunity to file their objections to the provisional list.

Learned State Counsel present at the hearing also could not satisfy this Court with regard to the denial of opportunity to the writ petitioners/the present appellants to place their objections and to get their documents verified after publication of the provisional list.

Following the Order dated 8th August, 2022, the District Magistrate, Malda has filed a detailed Report on Affidavit. The Report, *inter alia*, states that after receiving the applications from the applicants connected to the ASHA recruitment on online mode, a notification was issued on 4th March, 2022 for document verification. Such document verification was to be conducted at the office of the Sub-Divisional Officer, Chanchal, Malda on and from 10th March, 2022 till the 17th of March, 2022.

The Report elaborately points out that call letters were issued for document verification to every applicant intimating the particulars of the date and time on which the document verification was to take place.

The Report further points out that after the document verification process two provisional lists of rejected candidates were published on the same date, i.e. 1st of April, 2022. One list was for the applicants who were absent during the document verification process as

fixed above and another list in respect of applicants who could not fulfil the eligibility criteria inasmuch as the original documents produced by such group of candidates were found to be defective since Part Numbers mismatched in respect of the service villages where they resided and what was printed in the online application.

It is specifically contended in the Report of the District Magistrate that none of the writ petitioners participated in the document verification process.

The reasons for non-participation of the writ petitioners/the present appellants in the document verification have been also stated by the District Magistrate which in the case of the respective petitioners are as follows:

*(viii) (a) Petitioner No.1 i.e. LilawatiKumari, W/o –Tinku Kumar Das, Village –Balarampur. PO- Balupur, Dist- Malda had applied for the post code OLD130, service village Balarampur, reserved for ST Category and had submitted ST Certificate issued by the Government of Bihar on 13.02.2017. A copy of the EPIC is enclosed herewith and is marked as **annexure R/7**.*

It is also stated that as per the guidelines for issuance of ST/SC certificate of Government of West Bengal vide Memo No. 1465-BCW/MR-67/10 dated 30.04.2010 paragraph 23; it was inter alia mentioned that-

‘ A person migrated from other state/union territory to the state of West Bengal after publication of the Presidential orders on Schedule Castes and Schedule Tribes can also apply for caste Certificate, though he is not entitled to benefits given to Schedule Castes and Schedule Tribes by the State of West Bengal.’

*The paragraph 23 of the said guideline is enclosed herewith and is marked as **annexure R/8***

For the aforesaid reason that the candidature of Petitioner No.1 was cancelled, since she does not poses a valid and genuine caste certificate issued by the competent authority in West Bengal.

- (b) *Petitioner No.2 i.e. Muktara Khatun, W/o. Manirul Islam, Village- Balughat (Purbapara), P.O.- Dhangara, PS- Chanchal Dist- Malda, has applied for post code number new 11, for Service Village- Khasmahal Bath, AC-47-Malatipur, Part Number 132 reserved for General had submitted EPIC at the time of verification bearing no. CHQ2936763 belonging to Part Number 133. A Copy of the EPIC which she produced during verification process is enclosed herewith and is marked as **annexure R/9.***

- (c) *Petitioner No. 3 i.e. Rubi Saha, W/o Dhiraj Mondal, Village & P.O. – Banikantatola, Dist-Malda, has applied for post code number, old 131, for Service Village- Balarampur, AC-48-Ratua, Part Number 1, 2 reserved for Scheduled Caste but she*

*has submitted EPIC bearing number NTF1392521 belonging to Part Number 51. A Copy of the EPIC which she produced during verification process is enclosed herewith and is marked as **annexure R/10.***

- (d) *Petitioner No. 4 i.e. Koma Das, W/O- Prasenjit Mondal, Village – Sudamtola (Khasmahal Bandh), P.O. – Mahanandatola, Dist- Malda, has applied for post code number new 34, for Service Village –Khasmahal Bath, AC-48 – Ratua, Part Number 20 reserved for General but she has submitted EPIC bearing No. CHQ2522795 belonging to Part Number 14. Copy of the said EPIC which she produced during verification process is enclosed herewith and is marked as **annexure R/11.***

Further I respectfully submit that none of the above stated petitioners availed of the said second opportunity as given to them by the said notification and appeared before the respondent number 10 i.e. the Sub-Divisional Officer, Chanchal, Malda to submit the respective documents in support of their candidature.

(ix) It is respectfully stated that in fact in order to make their respective applications accepted through online portal they quite deliberately and intentionally furnished the same/identical part numbers in relation to the concerned service villages, they have applied for in terms of the said notification for recruitment for ASHA, in as

much as if they would have given their original part numbers under which the service village is located, in terms of their EPIC, their applications would not have been accepted online in the system and this falsehood, anomalies and discrepancies were detected at the time of verification of their document. In terms of EPIC, petitioner No.2's part Number is 133, petitioner No.3's part Number is 51 and petitioner No.4's part Number is 14 respectively.

(x) Thus, I state that the Petitioner Nos.2, 3 and 4 suppressed the material facts quite deliberately and intentionally in not disclosing and/or furnishing their original part numbers in terms of their respective EPICs, while submitting their respective pat numbers in their column 7 of the said application for engagement of ASHA workers through online portal for the said applications.

(xi) It is further submitted that in terms of the aforesaid notification for engagement of ASHA, the Part Number-and service village are specified because in respect of a specified and particular part number under which a service village is located ASHA workers are to be appointed in terms of the said recruitment because it is very much necessary for the concerned Selection Committee to engage ASHA Workers in respect of a particular and specified part number under which the concerned Village is located/situated

where ASHA Workers will be engaged for the service of the said specified particular locating.

(xii) It is also submitted that there may be more than one part in a village, which can be evident from serial Number 17,20,21,38 etc. of the notification being memo no.206/SDO/CHL/Health/ASHA dated 08.02.2022. In the said notification, it is specifically mentioned in column no.7 that applicants can apply against particular part number indicating service area of a village for which she is going to serve. It is to be kindly noted that one ASHA is to serve 800-1200 population in a village as per guideline of Health and Family Welfare Department, Government of West Bengal vide Memo No. HFW/NRHM-202006 (Part II)/1631 dated 27.06.2012.

(xiii) I respectfully submit that in pursuance to the directions passed by the Hon'ble Court in the instant appeal dated 08.08.2022; the instant report in the form of an affidavit is being filed before this Hon'ble Court for kind consideration and also for proper adjudication of the instant appeal."

This Court also had the occasion to go through the contents of the Affidavit-in-Reply filed by the writ petitioners/the present appellants to the Report on Affidavit of the District Magistrate. From the Affidavit-in-Reply, it transpires that there is a general and bald denial

of the steps taken by the recruiting authority as reflected in the Affidavit of the District Magistrate. The appellants/the writ petitioners merely rely on the Order of the Hon'ble Division Bench dated 8th August, 2022 reiterating the dissatisfaction expressed by the Hon'ble Court on the steps taken in the recruitment and hence directing the District Magistrate to file a detailed Report.

The Writ Petitioners/the appellants also question the wide circulation not given to the Notification dated 4th March, 2022 by which the process of document verification was initiated.

Having heard the parties and considering the materials placed as well as comparing the Report on Affidavit of the District Magistrate with the Affidavit-in-Reply of the writ petitioners/the appellants, this Court is unable to hold in favour of the writ petitioners/the appellants who have been unable to traverse each of the points raised in support of rejection of their candidatures in the Report of the District Magistrate. Each of the points connected to each of the writ petitioners showing reasons for their rejection in the selection process have been enumerated in the Report of the District Magistrate and this Court is unable, in the facts of this case, to hold otherwise.

Accordingly, no relief can be granted to the writ petitioners/the present appellants in this appeal.

MAT 748 of 2022 with **IA No. CAN 1 of 2022**
stand accordingly **dismissed**.

The selection process shall be now taken to its
logical conclusion.

All parties to act in terms of a copy of the order
downloaded from the official website of this Court.

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

(Supratim Bhattacharya, J.)

(Subrata Talukdar, J.)