

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16739 of 2021
with
CAN 1 of 2022

Shreyashi Palai
Vs.
The State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Advocate
Mr. Uttam Kumar Bhattacharya
Mr. Raju Bhattacharyya
Mr. Surath Choudhury
... For the petitioner

Mr. Santanu Kumar Mitra
Mr. Subhabrata Das
... For the State

This is the second round of litigation between the petitioner and the respondents concerning a recruitment process for the post of Supervisor in Kharagpur-II ICDS Project operated by a Non-Governmental Organisation (in short “NGO”). The petitioner submitted her candidature as under the General Sportsmen Category and was called for the written test. On being successful in the written test, the petitioner was called for the viva-voce. As no panel was published, the petitioner made a representation. In the previous writ petition filed by the petitioner, being WP No.2405 (W) of 2020, by an order dated 12th March, 2020, the respondent no.3, in the said writ petition, being the Director of ICDS, West Bengal, Women and Child Development and Social Welfare Department, was directed to pass a reasoned order disposing of the petitioner’s

representation. The petitioner's representation was disposed of by an order dated 5th October, 2020 connoted as the reasoned order.

The petitioner has challenged this reasoned order on the ground that no reasons have been given in the said order as to why the panel containing the names of the successful candidates were not prepared and published by the respondent authorities. The writ petition has been filed on 4th October, 2021.

It is submitted by the State respondents that the recruitment process was entrusted to an NGO. The entire process was conducted in a faulty manner and de hors the prevailing rules, regulations and guidelines of the Government. As a consequence thereof, the entire selection/recruitment process was cancelled on 9th October, 2020. The photocopy of the resolution said to have been adopted by the Selection Committee of Kharagpur-II (NGO) ICDS Project regarding the subject recruitment process in its meeting held on 9th October, 2020 is disclosed with the report filed by the State respondents. The said minutes appears to have been signed by the Director, ICDS Project, being the Chairman to the Selection Committee on 9th October, 2021, i.e., subsequent to the filing of the writ petition and may be after a copy thereof was served.

After considering the materials on record, I find that the order passed in the petitioner's previous writ

petition, being WP No.2405 (W) of 2020, has unearthed the gross illegality committed by the Selection Committee set up to oversee the recruitment process in terms of the subject advertisement.

The respondents now say that the petitioner did not produce the certificate as a meritorious sports person from the competent authority though this allegation did not find place at the initial stage.

This issue as to non-production of proper certificate cannot be taken into consideration as it is too late in the day to contend that the petitioner submitted defective certificate particularly when the written test and viva-voce had taken place. The petitioner's candidature was also not rejected on the ground of having produced a defective certificate. The entire selection process has been cancelled on the ground that the names to be considered for the post of Supervisor (Reserved for General Sportsmen Category) were required to be sponsored through the Employment Exchange and such procedure has not been adopted. The petitioner had no knowledge about this eligibility criterion that the candidates have to be sponsored by Employment Exchange as the same did not figure in the advertisement. A legitimate expectation, therefor, was created in the mind of the petitioner for being considered in the selection process. This expectation further increased on the petitioner being called for the written test and on being successful thereat was called for

viva-voce. The petitioner, therefor, cannot be, at this stage, eliminated from the subsequent selection process which the respondents propose to initiate on having cancelled the previous selection process.

The respondents are, therefor, directed to consider the petitioner's application, if made, for being considered in the subsequent selection process which the respondents propose to hold for filling up the post of Supervisor (Reserved for General Sportsmen Category), irrespective of the fact whether she is a candidate sponsored by the Employment Exchange or not. The petitioner, however, is required to fulfil other requisite qualifications that may be prescribed in the fresh selection process.

The upper age limit in the subject advertisement for the post of Supervisor (Reserved for General Sportsmen Category) was 45 years. The petitioner is presently aged about 36 years and, as such, there can be no age bar in respect of the petitioner if the same norms as in the subject advertisement are followed in the subsequent advertisement and the same is published within a reasonable time. In the event the age limit in the fresh selection process is reduced below 36 years, the petitioner should be granted age relaxation to permit her to participate in the selection process.

The writ petition is, accordingly, disposed of.

The interim order stands vacated.

In view of the disposal of the main writ petition, the connected application, being CAN 1 of 2022 for appropriate order, is also disposed of without any further order.

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

(Arindam Mukherjee, J.)