

S/L 16
16.09.2022
Court. No. 19
GB

W.P.A. 17582 of 2021

Dr. Partha Jana
VS
The State of West Bengal & Ors.

Mr. Amitabrata Ray,
Mr. Arkadipta Sengupta.

...for the Petitioner.

Ms. Chaitali Bhattacharya,
Mr. Subhendu Roy Chowdhury.

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioner offered his service as a part time homeopathy doctor by making an application before the Kotalpur Gram Panchayat. The Block Development Officer, Jangipara Development Block was intimated of the same by the Pradhan, Kotalpur Gram Panchayat. On the basis of a resolution taken by the Jangipara Panchayat Samiti, the candidature of the petitioner was forwarded to the Secretary, Hooghly Zilla Parishad. It appears that the Hooghly Zilla Parishad also had recorded in its resolution about the proposal. However, allegedly no action was taken by the authorities. The petitioner has moved this Court for necessary orders.

The learned advocate for the State respondents denies the claim of the petitioner. It is submitted that the petitioner on his own accord, applied for the post. There was no wide spread advertisement or publication of any vacancy. Necessary permission from the Department of Health and Family Welfare, had not been taken. Neither the Department

of Health and Family Welfare nor the Department of Panchayats and Rural Development had taken any action to either fill up or to appoint the petitioner to the part time post. It was entirely a private arrangement between the parties, which was not authorized by law. It is further submitted that the Zilla Parishad probably did not take further steps for appointment, as the proposal was not in accordance with law. It is further submitted that the Special Secretary, Panchayats and Rural Development Department, by an order dated November 10, 2020 had intimated the Additional Executive Officers of All Zilla Parishads and also the Siliguri Mahakuma Parishad, that engagement of contractual State Budget Aided Medical Officers at Gram Panchayat levels, and dispensaries should be kept on hold, till a proper guideline was reconstituted and the procedure for selection process and recruitment of Homeopathy Medical Officers and Ayurvedic Medical Officers was finalized.

Heard the parties.

The Jangipara Panchayat Samiti might have recommended the petitioner to the Hooghly Zilla Parishad upon receipt of an application from the petitioner duly forwarded by the Pradhan, but such recommendation or proposal would not create a vested right in favour of the petitioner for appointment and/or engagement. The petitioner has also not been able to justify whether any selection process was initiated. The Hooghly Zilla Parishad, although received the proposal, did not take any steps,

probably because the government had instructed the Zilla Parishad not to do so.

The writ Court, thus, cannot pass any mandatory direction in favour of the petitioner. The writ Court also cannot decide in what manner and by what procedure guidelines to a selection process must be reconstituted. If the government wants to change the existing guidelines and come up with a more transparent, clear and uniform procedure, the government has the right to do so. Thus, once the guidelines are finalized, the petitioner may apply for the job, if he is otherwise eligible and does not cross the age bar. However, as the matter relates to employment, it is expected that the guidelines should be formulated expeditiously.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)