

14.03.2022  
Ct. 25  
D/L 7  
ab

**WPA 23507 of 2014**

**Smt. Jali Dash ( Panda)**

**-Vs-**

**The State of West Bengal & Ors.**

Mr. A. K. Routh,

... for the petitioner

Mr. Anindya Bose,  
Mr. Diptendu Mondal,

... for the added respondent

Ms. Chaitali Bhattacharya,  
Mr. Kartick Chandra Kapas,

... for the State

The petitioner claims to have submitted her application to the post of 'ASHA' under Barida Gram Panchayat, which is situated within Egra-I Block of District- Purba Medinipur.

The petitioner filed a writ petition being W.P. 2485(W) of 2014 alleging that she was not called for interview though she submitted an application for the said post. The said writ petition was disposed of by an order dated April 24, 2014 by permitting the writ petitioner to make a representation to the concerned Sub-Divisional Officer, who was directed to take a reasoned decision. Pursuant to the said order, the writ petitioner submitted a representation dated July 7,

2014 which was disposed of by an order dated July 30, 2014.

The petitioner filed this writ petition challenging the order dated July 30, 2014 passed by the Sub-Divisional Officer, Egra, District- Purba Medinipur wherein it was held that the application of the writ petitioner stood summarily rejected on the ground of incompleteness for non-submission of copies of the marksheet in conformity with the advertisement issued for the said post.

The specific case of the writ petitioner is that she submitted all the relevant documents specified in the advertisement and she having secured the highest marks amongst the candidates participating for selection to the said post, she should have been appointed to the said post. The writ petitioner has challenged the order dated July 30, 2014 on the ground that the same is a non-speaking and cryptic order.

Mr. Routh, learned advocate for the petitioner submits that the writ petitioner at the time of submission of the application form duly put in her signature at the register, which was maintained by the authorities wherein particulars of the documents submitted by the applicants were recorded. He also submits that the authorities, in order to favour the added respondent, claimed that the marksheet submitted by the petitioner was not available with the

records. He further submits that this Hon'ble Court by an order dated April 1, 2015 directed that the added respondent shall not be permitted to take up the assignment without the previous leave of the Court, in the event she has not joined the post.

By drawing the attention of the Court to the order dated May 14, 2015, Mr. Routh, submits that the State did not appoint the added respondent to the said post till that date and as such, an order was passed restraining the authorities from taking any further steps to either issue any letter of appointment or cause any person to be engaged in the post without the previous leave of the Court. He further submits that in the teeth of such orders passed by this Court from time to time, the added respondent could not have been appointed to the said post.

Mr. Bose, learned advocate appearing for the added respondent produces a copy of the Memo No. 118/14-15, dated March 19, 2015 issued by the Secretary, Block Health & Family Welfare Samiti, Egra-I Block stating that she was asked to report to the Secretary between March 23, 2015 and March 31, 2015 along with the documents mentioned in the said letter. He submits that pursuant to the said letter, the added respondent joined the said post on March 25, 2015 and she is continuing in the said post till date.

Learned advocate appearing for the State submits that the added respondent has been appointed to the said post and she is still continuing to work in that post. He further submits that pursuant to the direction given by this Court, the concerned District Magistrate enquired into the matter and passed an order on July 1, 2015, wherefrom it appears that the writ petitioner failed to substantiate her claim with any supporting documents.

I have heard the learned advocates appearing for the respective parties and perused the materials on record. The main grievance canvassed in the instant writ petition is that the writ petitioner was not considered for appointment in spite of submitting the marksheet of the Madhyamik Examination along with the application. Though it has been submitted by the learned advocate for the petitioner that the copy of the register, which is annexed at page 19 of the affidavit-in-reply filed by the petitioner, is a forged and manufactured one as the same does not bear the signature of the writ petitioner, it appears that in the writ petition, the writ petitioner did not plead that she put her signature on the said register at the time of submission of the application form. The writ petitioner tried to make out a new case in the affidavit-in-reply saying that in the last column of the row, she signed her name in Bengali. The petitioner claims that the

photocopy, which is annexed at page 19 of the affidavit-in-reply, is the copy of the register, which was handed over to the learned advocate for the petitioner and the same was with the writ petitioner till the register was submitted at the office of the concerned District Magistrate some times in the month of June, 2015 in terms of the order dated May 14, 2015. Thus, this Court is of the view that after going through the said register, the writ petitioner tried to make out a new case in the affidavit-in-reply, which was not pleaded in the writ petition.

In order to ascertain as to whether the petitioner submitted her marksheet and as to whether the respondent authorities contrived to show that the petitioner had submitted an incomplete application, an order was passed on May 14, 2015 requesting the District Magistrate to conduct an enquiry and file a report as to whether the petitioner submitted a copy of her marksheet along with the application and as to the veracity of the register relied upon by the authorities.

The District Magistrate made a thorough inquiry and passed an order dated July 01, 2015. After verification of the register, the District Magistrate found that the applications received from different Gram Panchayats under Egra-I Block have been entered separately in the register under due authentication of the Block Development Officer himself. It was also

observed that there is no space left for any doubt regarding veracity of the register as questioned by the petitioner. It was further observed that the petitioner also failed to substantiate her claim with any supporting documents. The documents enclosed with the petitioner's application was also mentioned therein and the marksheet does not find any place in the said list.

Though an exception to the said report of the District Magistrate has been filed by the petitioner reiterating her stand that she had submitted the marksheet along with the application, no credence thereto can be given in the absence of any pleading in the writ petition. Such findings of fact arrived at by the District Magistrate do not suffer from infirmity and cannot be interfered with by this Court under Article 226 of the Constitution of India.

The order dated July 30, 2014 passed by the Sub-Divisional Officer, Egra also stated that the application of the writ petitioner was rejected on the ground of incompleteness for non-submission of copies of the marksheet in conformity with the advertisement.

Since the only dispute which is germane is whether the writ petitioner's candidature was rightly cancelled, this Court is of the view that the order dated July 30, 2014 rejecting the application of the petitioner cannot be said to be a non-speaking and cryptic order,

as contended by the learned advocate for the petitioner, as the reason for rejection has been disclosed therein.

Selection to the said post is based on marks obtained in the Madhyamik or equivalent examination and the score in the interview. Therefore, marksheet of the applicant is a vital document for such selection. An application is thus liable to be cancelled for non-submission of the said document and the authority was justified in cancelling the application of the petitioner.

Since this Court is not inclined to interfere with the decision taken by the concerned authorities, this Court refrains from making any observation on the submission of the learned advocate for the petitioner that the added respondent could not have been appointed in the teeth of the restraint order of this Court.

For the reasons as aforesaid, the writ petition stands dismissed without, however, any order as to costs.

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

( **Hiranmay Bhattacharyya, J.**)