

21.11.2022
Sl. No.8(DL)
srm

W.P.A. No. 23813 of 2022

Smt. Bandana Mandal

Versus

The State of West Bengal & Ors.

Mr. Amitabha Ghosh

....for the Petitioner.

Mr. Jahar lal De,
Mr. Supratim Dhar

...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.10 and 11. Affidavit-of-service is taken on record.

The petitioner has assailed a letter dated September 10, 2022 issued by the Block Medical Officer of Health, Kaliachak-III, Malda. By the said letter, the Block Medical Officer of Health, Kaliachak-III, Malda informed the Sub-Divisional Officer, Malda Sadar that the service of the petitioner had been terminated for non-compliance of the residential criteria.

The petitioner submits that she is a resident of Akandabaria Gram Panchayat of village Sahilapur (Ramnagar). The reason assigned by the Block Medical Officer of Health that the petitioner was not a resident of

the service village as reflected in the notification, was incorrect and an error apparent on the face of record. According to the petitioner, the sub-centre was Akandabaria and the petitioner was residing within the Akandabaria Gram Panchayat. She could not have been disqualified.

This Court is not in a position to decide the disputed questions of fact. Whether the notification giving rise to the selection process had mentioned that the applicant must be a resident of the service village to which the sub-centre at Akandabaria catered or not, has to be gone into. If the notification was silent in that regard and persons who lived within the Akandabaria Gram Panchayat were entitled to participate in the selection process, in that event such order could not have been passed.

Whereas, if the eligibility criteria with regard to the residential status in the notification was mentioned as the service village to which the sub-centre Akandabaria catered, in that event the question would arise whether the petitioner was a resident of the said service village or not. The letter impugned is lacking in material particulars and the above question, as framed by the Court, has not been answered.

The Block Medical Officer of Health, Kaliachak-III,
stated as follows:

“Due to mismatch of Part No. with Service Village as reflected in the Notification, selection is required to held (sic.) afresh against New 63 (Ramnagar AC no-54) – Akandabaria SC.”

Under such circumstances, the Sub-Divisional Officer, Malda Sadar, is directed to treat the writ petition as a representation of the petitioner, and dispose of the same in accordance with law. The authority shall clarify the reasons as to why the provisional engagement of the petitioner was terminated on the ground that the petitioner did not fulfil the eligibility criteria as per the communication of the Block Medical Officer of Health.

While doing so, the complainants Damayanti Mandal wife of Asutosh Mandal and Bhairabi Mandal wife of Prosenjit Mandal, who had lodged complaints against the petitioner, shall also be heard. If it is found that the petitioner was wrongly terminated, then necessary orders shall be passed with regard to the engagement of the petitioner, by setting aside the decision of termination. Till such decision is taken and communicated to the parties, no steps shall be taken to fill up the post of ASHA of Akandabaria Sub-Centre, provided the same is still vacant.

The entire exercise shall be completed within a period of six weeks from the date of communication of this order.

This Court has not gone into the merits of the claim of the writ petitioner.

The writ petition is, thus, disposed of.

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.)