

S/L 46
14.12.2022
Court. No. 19
GB

W.P.A. 25293 of 2022

Nandita Mandal Samanta
VS
The State of West Bengal & Ors.

*Mr. Masud Karim,
Ms. Chandana Nauta,
Mr. Abhijit Chatterjee,
Mr. Galib Ahasan.*

...for the Petitioner.

*Mrs. Chaitali Bhattacharya,
Mr. Mrinal Kanki Biswas.*

...for the State.

*Mr. Sarbananda Sanyal,
Ms. Poulami Chakraborty.*

...for the Respondent No.14.

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

The petitioner is aggrieved by the selection of the respondent no.14 as an ASHA for Saraswathya village in Raghunathbari Gram Panchayat. The petitioner is an unsuccessful candidate who raised a question with regard to the permanent residential status of the respondent no.14. On such complaint of the petitioner, an enquiry was held by the Block Development Officer. The Sub-Divisional Officer had directed such enquiry. The petitioner was supplied the enquiry report. The allegation about the respondent no.14 being a permanent resident of Uttar Pradesh was found to be incorrect. Such report is under challenge.

Reliance had been placed by the petitioner on the Adhaar Card of the respondent no.14 which was issued on December 27, 2018. The address of the respondent no.14 was

of Aligarh, Uttar Pradesh. It is contended that the respondent no.14 started residing in Uttar Pradesh since 2016, after her marriage. Referring to the notification inviting applications for selection to the post of ASHA, it is submitted that the applicant must be a resident of the same village for which she shall be selected.

The notification for selection to the post of ASHA was issued sometime in 2018 and the petitioner and the respondent no.14 appeared at the interview. The respondent no.14 was successful. The petitioner raised the above objection with regard to the residential status. Enquiry was directed. At the enquiry, the father of the respondent no.14 submitted relevant documents to show that the respondent no.14 was a resident of Saraswathya village. The marriage certificate, the Maa and Sishu Suraksha Card, Aadhaar Card, the voter list, the Epic Card were all considered and the authority arrived at the conclusion that the allegation was incorrect.

The criteria provides that the candidate must be a resident of the same village in respect of which she is selected. That criteria does not make any distinction between a permanent or a temporary residential status. Secondly, even if the respondent no.14 got married to a person in Uttar Pradesh and she had resided with her husband at Uttar Pradesh for some time, her place of residence did not change. All her documents continued to remain valid and her Epic Card, Ration Card etc. were proof of her residence in the village. There is no bar for a married woman to continue

to reside at her parents place or at her native village for the sake of employment even if the husband resides elsewhere. It is not a mandate that marriage would automatically alter the residential status of a woman.

This is not a case where the respondent no.14 had either suppressed documents or had forged documents to create a false residential address at Saraswathy village.

The documents relevant to determine the residential status at time of selection were scrutinized twice. Once at the time of selection and thereafter during the enquiry. The members of the selection committee including the Sub-Divisional Officer were satisfied that the eligibility with regard to the residential status had been fulfilled. The members of the selection committee are the best judges of their requirements and are equipped to assess the suitability and eligibility of candidates as per such requirements.

The writ Court cannot sit in judicial review and interfere with the decision making process. There must be blatant irregularity, illegality or arbitrariness. In this case, the complaint of the petitioner was duly considered. An enquiry was conducted and the authority was once again satisfied.

The requirement for an ASHA to be a resident of the same village is only to facilitate the functioning of the sub-centres of health. Those persons have to cater to the immediate needs of the mothers and infants in the locality. As such, knowledge of the locality, familiarity with the

people and physical presence of the ASHA are the essential requirements for a robust health system in rural areas.

The marriage of the respondent no.14 to a person in Uttar Pradesh does not affect her residential status in the village where she was born, brought up, had lived and continues to live. Residing with the husband at U.P. for sometime would not negate the fact that she continued as a resident of the village. Her documents indicate that she did not completely sever connections with the village even after her marriage. In all official transactions proof of resident is based on Epic Card, Voters Card, Ration Card etc. A few months of stay at the matrimonial home would not alter the residential status, unless there is cogent evidence to show that the candidate had totally severed all connections with the village and had started residing at U.P. on a permanent basis.

Clearly the intention of the respondent no.14 was not to leave the village. She did not alter her address in the documents. Her Addhar card was also subsequently corrected. The Adhaar Card is not the only determining factor with regard to the residential status.

Accordingly, the writ petition is dismissed.

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.)