

12.12.2022
Sl. No.8(DL)
srm

W.P.A. No. 25335 of 2022

Shabanaj Bibi

Versus

The State of West Bengal & Ors.

Mr. Mohaimenul Mondal

....for the Petitioner.

Mr. Sudipto Panda,
Mrs. Munmun Tewary

...for the State-respondents.

Md. Sarwar Jahan,
Mr. Mobaidur Hossain

...for the Respondent No.9.

Affidavit-of-service is taken on record.

The petitioner alleges that the respondent No.9 was wrongly appointed to the post of ASHA in Tokia Schoolpara-10 Health Centre within the Modhupur Gram Panchayat, District-Murshidabad, on the basis of a fake mark sheet.

The petitioner further alleges that the respondent No.9 had obtained her qualification from Rabindra Mukta Vidyalaya, whereas, the petitioner passed the Madhyamik Examination from the West Bengal Board of Secondary Education. Between the two, the qualification from the Board of Secondary Education should carry more weightage.

Mr. Panda, learned Advocate appearing on behalf of the State-respondents submits on instruction from the Chief Medical Officer of Health, Murshidabad, that the certificate obtained by the selected candidate had been verified upon receipt of the complaint filed by the petitioner. It was found that the certificate had been issued by the Mukta Vidyalaya and was not a fake one. It is further submitted that the class-X examination which the respondent No.9 had passed from the Rabindra Mukta Vidyalaya, was recognised by the authorities. The rules prescribe that weightage must be given to the marks obtained in the secondary level and at the interview in the percentage mentioned therein.

The rules do not create any distinction between the candidates who had passed from the West Bengal Board of Secondary Education and those who had passed the class-X examination through open schooling.

Equivalence of degrees/Boards etc., is best left to the decision of the experts. As the rules do not provide that extra weightage should be given to the candidates who had passed directly from the West Bengal Board of Secondary Education, this Court cannot dictate terms to the selection committee, thereby rewriting the rules. The Court cannot usurp the jurisdiction of the authority. This Court cannot declare that

the petitioner's qualification was superior to the qualification of the respondent No.9

In the matter of *Tapas Kumar Das v. State of West Bengal* reported in *1996 (2) CLJ 467*, it was held as follows:-

“According to the principle laid down by the Supreme Court in this regard, it is the University of Calcutta or any other University within the State of West Bengal is the only competent authority to decide the question of equivalence of regular course of study, having regard to the regular course and syllabus, the quality of teaching and instructions and the standard of examination held by such Universities in comparison with the courses, syllabus quality of teaching and instructions and the standard of examination of other Universities.”

In the matter of *Rajendra Prasad Mathur v. Karnataka University & anr.*, reported in *1986 Supp SCC 740*, it was held as follows:-

“It is for each university to decide the question of equivalence and it would not be right for the court to sit in judgement over the decision of the University because it is not a matter on which the court possesses any expertise. The University is best fitted to decide whether any examination held by a university outside the state is equivalent to an examination held within the state having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the court should not disturb the decision taken by the university. Here we find that no material has been placed before the court on the basis of which the court could say that the decision of the Karnataka University not to recognise the Higher Secondary Examination of the State of Rajasthan or the first year B. SC. Examination of the Universities of Rajasthan and Udaipur as equivalent to the Pre-University examination of the Pre-University Education Board, Bangalore was arbitrary or not based on reasons. We

must therefore reject this contention urged on behalf of the appellants.”

Under such circumstances, nothing remains to be decided in the writ petition. The writ petition is disposed of without any orders.

As the competent authority claims to have already conducted a verification of the certificate of the respondent No.9, the petitioner shall be intimated the result of such verification.

Such intimation shall reach the petitioner within a period of four weeks from the date of communication of this order.

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.)