

13.12.2022
Sl.No.6
Ct.19
sn

WPA 26955 of 2022

Kabita Mahato
Vs.
The State of West Bengal & Ors.

Mr. Lal Ratan Mondal
Mr. Dilip Kr. Sadhu
..for the petitioner

Mr. L.M.Mahata
Mr. P.B. Mahata
..for the State

Despite service, none appears on behalf of the respondent no.10. Let the affidavit of service be taken on record.

As this Court is not passing any mandatory directions as prayed for, but is relegating the entire matter to be decided by the appropriate authority, the writ petition is taken up and disposed of in her absence.

This writ petition has been filed for a direction upon the state respondents to disqualify the respondent no.10 and cancel her candidature on the ground that she was a resident of the State of Jharkhand and could not be appointed as ASHA.

The respondent no.10 is the first empanelled candidate in the recruitment process. The petitioner is the second empanelled candidate.

Reference has been made to the notice for engagement of Asha dated April 20, 2022, on the

basis of which the selection had been conducted. According to the petitioner, the notification prescribed the eligibility criteria of the candidates. One such criteria being that the candidate must be a resident of the same area (village) in which the concerned sub-centre was situated.

Learned advocate for the petitioner submits that a resident of Jharkhad could not be allowed to participate in the selection process.

Learned advocate for the State respondents submits on instructions, that the respondent no.10 was the first empanelled candidate. Her residential status was found to be satisfactory. The name of the respondent no.10 had been entered in the electoral rolls showing her to be a resident of the area (village) in respect of which the selection was made. It is also submitted on behalf of the State respondents that the name of the respondent no.10 had been entered in the electoral rolls of the State of Jharkhand, but she had applied for cancellation of the same.

Having considered the controversy, this Court is of the view that the Sub Divisional Officer, Purulia Sadar and also the member Secretary of Asha must take a decision and pass a reasoned order with regard to the issues raised by the petitioner. The issues to be decided would be whether a resident of Jharkhand, who subsequently migrated to West

Bengal and started residing in the area/village in respect of which she was selected as Asha and also possessed enough evidence to prove her present residential status, could be debarred under the rules from participating in the selection process and from being selected.

It is not unusual for citizens to migrate to different states or change their place of residence, for work. The issue involved has to be decided strictly in accordance with the selection rules applicable and also in terms of the notice for engagement of Asha dated April 20, 2022.

This writ petition is disposed of with a direction upon the Sub Divisional Officer, Purulia Sadar to treat the writ petition as a representation and dispose of the same in accordance with law. While doing so, the petitioner, the respondent no.10 and all other interested parties in the said selection process shall be heard.

A reasoned order shall be passed and communicated all.

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

A copy of the writ petition along with a server copy of this order be served upon the respondent no.10.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)