

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8448 of 2020

Antara Arya & Ors.
Vs.
The Secretary, Department of Women & Child
Development and Social Welfare & Ors.

Ms. Somali Mukhopadhyay
... For the petitioner

The petitioners say that pursuant to an advertisement dated 25th June, 2006 for appointment of Anganwadi Workers and Anganwadi Helpers under the Integrated Child Development Scheme (in short “ICDS”) Project, the petitioners submitted their candidature in respect of different Gram Panchayats under Tufanganj-II Block in District Cooch Behar. The petitioners were called on for a written test and upon having been successful therein were also called for viva-voce in the year 2010. No selection list of the successful candidates was published after holding the viva-voce. This led to filing of several writ petitions.

In one of such writ petition, being WP No.3002 (W) of 2013, an interim order was passed on 7th February, 2013 to the following effect:-

“In the meantime, all selections that are proposed to be made shall not be given effect to without the leave of this Court.”

In another writ petition, being WP No.23561 (W) of 2014, which was filed in respect of Dinhata-I ICDS Project in District Cooch Behar, this Court recorded about a Government Order no.2404-SW/2M-106/09(Pt-II) dated 2nd June, 2010 wherefrom it appears that the authorities concerned were directed to complete the recruitment process in respect of the vacancies for the post of Anganwadi Workers and Anganwadi Helpers within four weeks from the date of issue of such order where advertisement, written test and other formalities have been concluded. The Court also noticed that despite such Government Order, a notice dated 8th July, 2010 was issued by the authorities inviting applications from eligible candidates to fill up the vacancies of Anganwadi Workers within Dinhata-I ICDS Project, District Cooch Behar. The said notice dated 8th July, 2010 was set aside and quashed by the order dated 28th August, 2014 passed in the said writ petition.

The stalemate condition with regard to the engagement of Anganwadi Workers and Anganwadi Helpers in the District of Cooch Behar continued even thereafter. It further appears from an order dated 1st October, 2021 passed in WPA 256 of 2021 cited by the petitioners that the results could not be declared with regard to ICDS Project in Tufanganj-II Block in the district of Cooch Behar in view of an order of stay passed in WPA 820 of 2019. The said writ petition, being WPA 820 of

2019, as recorded in the order dated 1st October, 2021, was dismissed on 21st September, 2021. Finding that there was no embargo in completing the recruitment process, this Court, by the order dated 1st October, 2021 passed in WPA 256 of 2021, gave the following direction:-

“The Principal Secretary, Department of Women & Child Development & Social Welfare being the respondent no.1 shall constitute the District Selection and Monitoring Committee, Cooch Behar afresh and complete the process of appointment of Anganwadi Helpers in Tufanganj-II Integrated Child Development Scheme Project.

In case all the vacancies have been filled up in accordance with law, the available/empanelled candidates shall be considered against the vacancies that may arise in future.

This is subject to any Rule of the State, as regards filling up of any category of vacancies.

For the aforesaid purpose, the writ petitioners shall serve a copy of this order along with a copy of the instant writ petition on the respondent no.1 herein.

With the aforesaid observations, the instant writ petition shall stand disposed of.”

I am told by the petitioners that no appeal has been preferred against the said order dated 1st October, 2021.

Since the said order dated 1st October, 2021 relates to ICDS Project in Tufanganj-II Block being the same block and district involved in this writ petition and the

recruitment process in view of such order has been set to motion, I have no reason to differ from the said order expressing a different view.

It is true that the petitioners have approached this Court only on 12th October, 2020 when the writ petition was filed and there has been a long delay in between, but for the orders passed from time to time as referred to hereinabove, I intend to extend the same benefit to the petitioners.

The respondents remain unrepresented despite notice. No affidavit-in-opposition has been filed on behalf of the respondents despite there being a direction for the same as far back as on 7th December, 2020. The office note also demonstrates that no affidavit-in-opposition has been filed. The petitioners say that no affidavit-in-opposition has also been served either on them or their advocate.

The petitioners have paid the deficit court fees under filing no.A-8195 dated 8th December, 2020.

In the aforesaid facts and circumstances, I direct the respondent no.1, being the Secretary, Department of Women & Child Development and Social Welfare, Government of West Bengal, to comply with the Government Order No. 2404-SW/2M-106/09(Pt-II) dated 2nd June, 2010 and complete the recruitment process in terms of the advertisement dated 25th June, 2006 as referred to hereinabove, if necessary by constituting a

fresh District Selection and Monitoring Committee for the District of Cooch Behar and complete the process of appointment of Anganwadi Workers and Anganwadi Helpers in the ICDS Project in Tufanganj-II Block in the District Cooch Behar within a period of four (4) months from date.

In the event the vacancies declared under the recruitment process held pursuant to the notification dated 25th June, 2006 have been filled up in accordance with law, the available empanelled candidates shall be considered against the vacancies that may arise in future, subject to any prevailing rule for filling up such vacancies.

Since the maximum age in terms of the notification dated 25th June, 2006 pursuant to which the petitioners had submitted their candidature was 45 years, there is every likelihood that some of the petitioners have surpassed the maximum age limit of 45 years during the interregnum. The petitioners cannot be held responsible for the delay. The candidates who had surpassed the age of 45 years during the interregnum will be victimised for no fault of theirs. In order to avoid such occurrence, this order is passed keeping in mind the Government Order dated 2nd June, 2010 and the order of this Court passed in WP No.23561 (W) of 2014 passed on 28th August, 2014.

The petitioners have prayed for mandatory order for issuance of letters of engagement. The post of Anganwadi Workers and Anganwadi Helpers have been

held to be not a statutory post by the Hon'ble Supreme Court in the judgment reported in (2007) 11 SCC 681 (State of Karnataka & Ors. v. Ameerbi & Ors.). Considering the facts of the instant case, no mandatory order can be passed at this stage particularly when the selection list has not been published.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

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

(Arindam Mukherjee, J.)