

S/L 47  
27.09.2023  
Court. No. 29  
*Sourav*

**WPA 656 of 2021**

**Smt. Nandita Paul (Halder)**  
**Vs.**  
**The State of West Bengal & Ors.**

*Mr. Satyajit Mondal*  
*Mr. Amar Nath Sen*  
*Mr. Shouvik Naskar*

*...for the petitioner.*

*Mr. Srikanta Dutta*  
*Ms. Rituparna Sarkar Dutta*

*...for the respondent no. 16.*

1. Learned advocate for the writ petitioner and learned advocate for the private respondent no. 16 are present.
2. The affidavit-of-service as filed by the learned advocate for the writ petitioner and the vakalatnama as filed on behalf of the private respondent no. 16 be taken on record.
3. I have meticulously perused the entire materials as placed before this Court and I have also given my anxious consideration over the submissions of the learned advocates for the contending parties.
4. By filing the instant writ petition under Article 226 of the Constitution of India, the writ petitioner has asked for issuance of writ of mandamus upon the respondents/State authorities for consideration of her representation, the copies of which have been marked as 'Annexure P-4 series' (Page Nos. 23 to 30).
5. From the materials as placed before this Court, it reveals that the present writ petitioner was called for an interview on November 22, 2018 for the purpose of ASHA

(Accredited Social Health Activist) engagement in different sub-centres under Kakdwip Sub-Division. Unfortunately, the writ petitioner could not qualify in the said examination, however, the private respondent no. 16, Mira Malakar was appointed.

6. Since the present writ petitioner had a suspicion with regard to the educational qualification of the private respondent no. 16 for appointing in the said post in supersession of the present writ petitioner, the writ petitioner on 24.11.2020 made a representation with the District Magistrate of South 24 Parganas (a copy of which has been enclosed with the mark 'Annexure P-4'). However, such representation was not considered at all.
7. On perusal of the order dated 23.03.2021 as passed in this case, it reveals that a report was called for from the State as regards the applications and qualifications of the present petitioner and the private respondent no. 16. Such report was submitted on behalf of the State under cover of Memo No. 188/SDK-XVII/1/COURT/SDO/KDP. The relevant portion of which is as under:

*“Applicant as well as Petitioner’s Details as Per ASHA Recruitment Application Form Name – Nandita Paul Halder, W/O – Narayan Halder  
DOB- 07/02/1987  
Caste- General  
Educational Qualification- Passed Madhyamik Pariksha (Secondary Education) from WBBSE in 2004 with Second Division.  
No Certificate for Grade I SHG/Grade II SHG/Trained Dhay/Link Worker was provided with the application form.*

*Applicant as well as Selected Candidate's Details as Per ASHA Recruitment Application Form Name – Mira Rani Malakar, W/O – Dhirendra Malakar  
DOB- 21/09/1979  
Caste- General  
Educational Qualification- Passed Secondary Examination from BYEI in 2014.  
No Certificate for Grade I SHG/Grade II SHG/Trained Dhay/Link Worker was provided with the application form.”*

8. On comparative study of the aforesaid portion of the said report, it reveals that the present writ petitioner possesses educational qualification of Madhyamik passed from West Bengal Board of Secondary Education while the private respondent no. 16 possessed a similar qualification from **BYEI**.
9. In course of hearing, learned advocate for the writ petitioner draws attention of this Court to the Annexure R-2 of the affidavit-in-reply from where it would reveal that “**BYEI**” is a fake Board which has got no capacity and/or authority to issue a certificate of passing of Madhyamik and/or Secondary and/or equivalent examination which is, however, strongly disputed by the learned advocate for the private respondent no. 16 on instruction.
10. In view of the facts and circumstances, as discussed supra, this Court is of the considered view that justice would be sub-served if District Magistrate, South 24 Parganas is directed to consider the representation of the present writ petitioner as submitted on 24.11.2020 in consonance with the affidavit-in-reply more specifically

with regard to the contents of Annexure R-2 of such affidavit-in-reply as filed before this Court.

11. In view of such, this Court while disposing the instant writ petition directs the District Magistrate, South 24 Parganas to consider the representation dated 24.11.2020 along with a copy of the affidavit-in-reply together with its all annexures as submitted before this Court challenging the aforementioned report of the SDO, Kakdwip positively within a period of 2 (two) months from the date of communication of this order after giving an opportunity of hearing both to the writ petitioner and the private respondent no. 16 and/or their learned advocates and on conclusion of hearing, the District Magistrate, South 24 Parganas is directed to come to a logical conclusion of such writ petition positively by the end of December, 2023 and to communicate the same to the writ petitioner and private respondent no. 16, Mira Malakar.
12. It is also made clear that in the proposed finding, the District Magistrate, South 24 Parganas has to come to a finding with regard to the genuineness of the academic certificate i.e., the certificate issued by **BYEI** in the name of the private respondent no. 16 specifically.
13. This Court also directs that in the event, it is found that the certificate as produced by the private respondent no. 16 is fake and is not according to the ASHA implementation guidelines, the District Magistrate, South 24 Parganas has to take appropriate action against the private respondent no. 16 in accordance with law both in

Common Law Forum as well as in Criminal Law Forum and at the same time, if it is found by the District Magistrate, South 24 Parganas that any intentional lapses occurred in selection of the ASHA karmi (worker) as involved in the writ petition, he is to fix up responsibility upon the concerned person/persons and to initiate appropriate disciplinary proceeding (s) against the concerned person (s) without further reference to this Court.

14. Liberty is given to the present writ petitioner to forward the copies of the representation dated 24.11.2020, copies of her affidavit-in-reply against the report of the SDO, Kakdwip and a server copy of this order to the District Magistrate, South 24 Parganas and in the event, those documents were forwarded, District Magistrate, South 24 Parganas is at liberty to act on the server copy of this order.
15. With the aforementioned observation, the instant writ petition being **WPA 656 of 2021** is disposed of.
16. Parties are directed to act upon the server copy of this order duly downloaded from the official website of this Court.
17. Urgent photostat certified copy of this order, if applied for be given to the parties, upon compliance of necessary formalities.

**(Partha Sarathi Sen, J.)**