

Item No. 11
24.01.2023
Court. No. 19
GB

W.P.A. 623 of 2023

Yearkabad
VS
The State of West Bengal & Ors.

*Md. Salahuddin,
Md. Ahsanuzzaman,
Md. Raziuddin*

...for the Petitioner.

Mr. Rezaul Hossain

...for the State.

*Mr. Kallol Basu,
Ms. Sananda Bhattacharyya*

...for the Respondent No.8.

The petitioner alleges that the respondent no.8 had been illegally appointed as an 'ASHA' in No.2 Omrapur Mathpara. The specific allegation is that although the respondent no.8 was not a resident of the said ASHA area, the authorities favoured the said respondent and deprived the petitioner. Reliance has been placed on Part-9 of the electoral roles in support of the contention that the petitioner was a resident of the determined ASHA area whereas, the respondent no.8 was not.

Mr. Basu, learned advocate appearing on behalf of the respondent no.8 submits that an unsuccessful candidate cannot turn around and challenge a selection process. The petitioner had participated with her eyes open. She had taken a calculated risk by participating in the selection process. That the notification dated January 3, 2022 issued by the Sub-Divisional Officer, Jangipur, Murshidabad has been

misconstrued and the meaning of the expression 'determined ASHA area' must be confined to the limits of the village. It is submitted that the respondent no.8 is undergoing training.

The learned advocate for the State respondents has submitted some documents and a statement of facts. It has been specifically stated by the Block Development Officer, Suti-II Development Block, that the ASHA area has not been confined by the Part number in the voters list. Tabulation of the marks has been produced before the Court. The same indicates that the petitioner obtained 47.25 and was placed at Rank-2 in the panel, whereas the respondent no.8 obtained 51.14 marks and was placed at No.1. The respondent no.8 was engaged in the single vacancy.

The only allegation in the writ petition is that the respondent no.8 did not belong to the determined ASHA area.

Having gone through the records, it appears that recruitment as ASHA is guided by the notification bearing Memo No.HFW/NRHM-20/2006/(Part II)/1631 dated June 27, 2012, issued by the Principal Secretary, Department of Health and Family Welfare, Government of West Bengal. Eligibility criteria for being an ASHA is quoted below:-

“B. Eligibility for being an ASHA:

B.1: Should be a married/divorced or widowed woman

B.2: Should be a resident of the same village for which she will be selected

B.3: Should be within the age group of 30-40. In case of SC and ST candidates, the lower age limit may be relaxed to 22 years

B.4: Should be Madhyamik appeared or equivalent

B.5: Women candidates who are Madhyamik pass or processing higher qualification are also eligible. However, in case of candidates possessing higher

qualification, only marks obtained in Madhyamik or equivalent examination will be considered.”

If the parent guidelines/circular of 2012 and the advertisement/notification for recruitment in the instant case are harmoniously construed, the participants in the selection process must be residents of the village in respect of which the ASHA area has been determined. The advertisement cannot be contrary to the guidelines.

Even if the allegation of the petitioner is found to be correct, the petitioner has not been able to satisfy the Court that the petitioner is also a resident of Omrapur Mathpara. Both the petitioner and the selected candidate are residents of Omrapur village. The authorities have taken into consideration their residential status in terms of the village they belong to. The petitioner has not been denied appointment on the ground of non-fulfillment of the residential status. The petitioner has been denied employment on the basis of the marks which the petitioner obtained. The petitioner obtained less marks than the selected candidate. The tabulation sheet and the marks obtained are kept on record. Although ten candidates participated in the recruitment process, only the candidate who came second has challenged the recruitment process although the said candidate could not satisfy the Court that she herself belongs to Ormapur Mathpara. The authorities found that both the candidates were eligible to participate in the selection process and they were short listed. The petitioner obtained less marks and was not granted

appointment. The terms and condition of the notification and eligibility criteria are best determined by the panel of experts.

The writ petition is disposed of without any orders.

Accordingly, the writ petition is disposed of.

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.)