

20.01.2023
Sl. No.19(DL)
srm

W.P.A. No. 866 of 2023
Smt. Mariom Begam
Versus
The State of West Bengal & Ors.

Mr. Shubhra Prakash Lahiri,
Mr. Habibur Rahaman,
Mr. Rajesh Naskar

....for the Petitioner.

Mr. Manoj Malhotra,
Mr. Suman Dey

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent No.10.

The Court is not inclined to pass mandatory directions as prayed for. The matter is sent back to the appropriate authority for appropriate steps. The writ petition is thus, taken up in the absence of the said respondent who will be given adequate opportunity of hearing by the authority.

The petitioner has challenged the decision of the Additional District Magistrate (Health), Uttar Dinajpur dated December 16, 2022, *inter alia*, stating that the engagement of the respondent No.10 was in accordance with law and there were no discrepancies.

The petitioner alleges that no reasons have been assigned in this regard. According to the petitioner, the respondent No.10 was not a resident of the village where the Accredited Social Health Activist (ASHA) sub-centre was situated and in respect of which the selection had been conducted. Reliance has been placed on the guidelines of 2012, in this regard.

The Court agrees with the contention of Mr. Lahiri, learned Advocate for the petitioner that the letter issued by the Additional District Magistrate did not disclose the reasons as to why the authority arrived at the conclusion that the selection of the respondent No.10 in the post of ASHA for Andharia Health Sub-Centre, Karandighi, Uttar Dinajpur was in accordance with law. Whether the said selected candidate fulfilled the residential eligibility criteria or not has not been mentioned.

The petitioner has already approached the District Magistrate, Uttar Dinajpur for necessary intervention. The said representation has not been disposed of as yet.

The District Magistrate, Uttar Dinajpur is directed to dispose of the representation of the petitioner dated December 28, 2022, which is annexure P/8 at page 34 of the writ petition, in accordance with law. All the allegations of the petitioner shall be dealt with and disposed of. If

necessary, an enquiry with regard to the residential status of both the petitioner and the respondent No.10 shall be held. An opportunity of hearing shall be given to both the parties. A reasoned order shall be passed and communicated. If any discrepancy or illegality in the engagement of the respondent No.10 is found, then remedial measures shall be taken strictly in accordance with the rules and guidelines.

This Court has not expressed any opinion on the merits of the claim of the petitioner.

The entire exercise shall be completed within a period of two months 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 District Magistrate, Uttar Dinajpur.

The writ petition is, thus, disposed of.

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.)