

D/L
Item No 53
25.07.2023
KOLE

FMA 3538 of 2013
With
IA No. CAN 3 of 2022
Rajlaxmi Pradhan (Pal)
-Vs.-
Sudeshna Maity (Sashmal)

Mr. Jayanta Kumar Das,
Mr. Gourav Das,
Ms. M. Das,

...for the appellant.

Mr. Sankar Prasad Dalapati,
Mr. S. Dewan,

...for the respondent no. 1.

By consent of the parties the appeal and the connected application are taken up for hearing together.

This appeal is directed against a judgment and order dated February 6, 2012, passed by a learned Single Judge in WP No. 11695 (W) of 2010, being a writ petition filed by the respondent no. 1 in this appeal. The appellant was the private respondent in the writ petition.

The writ petitioner approached the learned Single Judge challenging a selection process and appointment of the appellant herein as Asha Worker on Gokulpur Gram Panchayat in Purba Medinipur. The learned Judge was persuaded by the writ petitioner that the writ petitioner should have been placed higher in the panel compared to the private respondent and accordingly, the panel requires to be reconstructed since the writ petitioner had obtained more marks on an aggregate in the selection process compared to

the private respondent. The learned Judge disposed of the writ petition with the following directions:-

“In such facts and circumstances as stated above, this writ petition is allowed and the panel prepared for the post-in-question by the Gokulpur Gram Panchayat based on the interview dated 25th April, 2010, stands quashed. The respondent no. 6, being the Block Medical Officer of Health, Gonara, BPHC, Purba Medinipur, shall take steps to direct the respondent no. 7 to prepare a fresh panel based on the observations made hereinabove and send the same to the said respondent no. 6 for grant of approval in accordance with law. Needless to mention, if any appointment has been given to the private respondent no. 8 (who has been duly served, but has not entered appearance) for the post-in-question, such appointment shall stand automatically cancelled in view of this order.

The entire exercise, in terms of this order, shall be completed by the respondent no. 6 as expeditiously as possible, preferably within a period of eight weeks, but not later than twelve weeks from the date of communication of a photostat certified copy of this order.”

Being aggrieved, the private respondent has come up by way of this appeal.

At the outset, we notice that on the day the writ petition was disposed of, the private respondent in the writ petition who is the appellant before us, did not appear before the learned Judge either in person or through learned Advocate. The learned Judge noted in the order that the private respondent who had been duly served did not enter appearance.

In view of the fact that the appellant herein chose to stay away from the proceedings before the learned Single Judge in spite of having due notice thereof, we are not

inclined to entertain this appeal. It would be unfair to the learned Single Judge if we permit the appellant to argue before us that the learned Judge passed a wrong order. The appellant should have participated in the proceeding before the learned Single Judge and advanced her arguments before his Lordship.

We decline to entertain this appeal. However, this will not prevent the appellant from approaching the learned Single Judge having determination in the matter with an appropriate application and explain her absence before the learned Single Judge. If she is able to demonstrate sufficient cause for her absence before the learned Single Judge, the learned Judge may pass appropriate orders as His Lordship may deem fit and proper.

Before parting, we put on record the submission made on behalf of the writ petitioner that the order under appeal has been implemented. The old panel was scrapped. A new panel was prepared and the writ petitioner was appointed as Asha Worker.

The appeal and the connected application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)