

114.
18.9.2023
S.D.

W.P.A. 1390 of 2023

Smt. Sanchaita Biswas (Das)
Vs.
The State of West Bengal & Ors.

Mr. Saibal Kumar Acharya
Mr. Sudip Sarkar
Mr. Krishna Pada Santra

..For the Petitioner

Mr. Manab Kumar Gupta
Mr. Tanmoy Roy
Ms. Moumita Gupta
Ms. A. Roy

...For the Respondent No. 8

Mr. Avishek Prasad

..for the State

Written instructions handed over in Court today by the
State respondents are retained with the records.

The writ petitioner applied for engagement as an
Accredited Social Health Activist (ASHA) Karmee for Sub-
Centres – Singhrati, Gram Panchayat – Hadipur Jhikra-I,
Block- Deganga, District – Barasat (Sadar), North 24 Parganas.

It is the case of the petitioner that the private
respondent no. 8 has been engaged illegally and arbitrarily
since she neither belonged to the same “*service area*” nor
applied within the period stipulated as per the Recruitment
Notification dated July 10, 2018. The candidates were

required to apply between July 13, 2018 and July 27, 2018.

However, the private respondent applied on July 11, 2018.

Mr. Acharya, learned counsel appearing on behalf of the petitioner submits that the respondent authorities had no right/authority to condone such procedural error. In order to give special preference to the private respondent no. 8, such procedural error was condoned in her favour.

This Court called for a Report from the Sub-Divisional Officer/respondent no. 4 on the issue why a candidate belonging to Sub-Centre – Hadipur Chuprijhara was engaged when the vacancy was advertised for the Sub-Centre – Singhrati. From the Report of the SDO affirmed on March 2, 2023, it appears that the Admit Card of the private respondent was corrected as there was an inadvertent *bona fide* mistake. The Admit Card wrongly recorded the private respondent's residence as Hadipur-I (SC). Because of such wrong recording in the name of the village, the name of the Sub-Centre was also wrongly recorded as Hadipur Chuprijhara instead of Singhrati.

When the petitioner and the private respondent were called for the interview, the same was rectified on the spot prior to the interview on January 19, 2022, without making any change with regard to the date of the interview.

It is also stated in the said Report that the selection of the candidates was done after giving due weightage marks obtained by the candidates in the Madhyamik Examination as well as in the interview. This Court called for a further Report from the respondent no. 2/the District Magistrate with regard to the “*service area*” to which the petitioner and the private respondent belonged. From the Report filed by the District Magistrate, North 24 Parganas/respondent no. 2, it appears that both the petitioner and the private respondent no. 8 were residents of village- Jhikra Colony, P.O. Azizpur, P.S. Deganga, District – North 24 Pargana within the local area of Hadipur Jhikra -I Gram Panchayat, Singhrati Sub-Centre. A joint enquiry was held by the Block Development Officer as well as the Block Medical Officer of Health and Secretary.

After considering the rival submissions of the parties and the materials placed on record, this Court finds that upon a perusal of the final score sheet of the petitioner and the private respondent no. 8 produced pursuant to an application made under the Right to Information Act, 2005, it has been clearly indicated by the SPIO, office of the Sub-Divisional Officer on November 18, 2022 that the private respondent no. 8 was a far better candidate securing 63.41% marks in aggregate compared to the petitioner securing 42.31% marks.

This Court finds no material irregularity or serious procedural error has been committed by the State respondents by considering the application of the private respondent no. 8 which was made on July 11, 2022 instead of July 13, 2022. No substantial right of the petitioner has been infringed. There may be a slight procedural lapse for which a more meritorious candidate cannot be made to suffer/ousted from selection process. Had such discrepancy been noticed the authorities would have been well within their power to call for a fresh application after July 13, 2022.

Furthermore, this Court finds no reason to disbelieve the Report filed by the District Magistrate/respondent no. 2 regarding "*service area*" of the aforesaid candidates relying on a joint Inspection Report of BDO and BMOH. It is perplexing that despite residing in the same "*service area*" the petitioner has sought to challenge the candidature of the private Respondent by alleging she resides outside the same only on the basis of a mistake on the Admit Card. The petitioner also fully knew that the private Respondent was a far better candidate after receiving the reply to RTI application.

Accordingly, it finds no merit in the present writ petition. The private respondent no. 8 is a far better candidate

for engagement as an ASHA Karmee. There is no infirmity in the decision making process of the State respondents.

Accordingly, **W.P.A. 1390 of 2023** is **dismissed**.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

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

(Lapita Banerji, J.)