

27.2.2023
Ct.19/sl.10
sn

W.P.A. 2380 of 2023

Kabita Mahato

Vs.

The State of West Bengal & Ors.

Mr. Lal Ratan Mondal
Mr. Dilip Kumar Sadhu
...for the Petitioner

Mr. Rajarshi Basu
Mr. Rezaul Hossain
..for the State

Mr. Ivan Roy
Mr. Nirupam Dutta
..for the respondent no.10

Supplementary affidavit annexing the order impugned is taken on record.

The petitioner has challenged the reasoned order passed by the Sub Divisional Officer, Purulia Sadar, dated January 2, 2023. According to the petitioner, the order impugned suffers from non-application of mind.

The petitioner had approached this Court by filing WPA 26955 of 2022 for a direction upon the respondent to disqualify the respondent no.10 and to cancel her candidature on the ground that the said respondent was a resident of Jharkhand.

The respondent no.10 was the first empanelled candidate in the recruitment process for appointment to the post of ASHA in respect of Rudra Sub Centre. The petitioner placed reliance on the notification dated April 20, 2022 and submitted that the

appointed candidate should be a resident of the same village in which the ASHA sub centre was situated, namely, Gondhudih.

The writ petition was disposed of with a direction upon the Sub Divisional Officer, Purulia Sadar to decide the issue raised by the petitioner and passed reasoned order.

The Court had directed the authority to decide whether a resident of Jharkhand who in the recent past migrated to West Bengal and resided in the service village could be selected as ASHA. Further direction was given to ascertain whether the said resident had enough evidence to prove her residential status within the service village. The Court directed that the matter should be decided strictly in terms of the engagement notification dated April 20, 2022. It is not uncommon for Indian citizens to migrate to different states or change their place of residence for work. Pursuant to such direction, the reasoned order was passed which is the subject matter of challenge in this writ petition.

It appears that an enquiry was made through the Chief Medical Officer of Health, Purulia and the Block Development Officer. The report of the headmaster of Chharrah High School was perused by the authority. The respondent no.10 was a student of the said school since Class V and she appeared at

the Madhyamik Examination from the said school. The Voter Card(EPIC) and the Ration Card were mandatory documents of prove of residential status as per the advertisement dated April 20, 2022. The voter card and the ration card indicated that the respondent no.10 was a resident of the said ASHA village.

The Block Development Officer, Purulia-I also filed a report forwarded by the Electoral Registration Officer, 239, Balarampur AC, which stated that the EPIC submitted by the respondent no.10 was a valid document. The Pradhan, Garfusra Gram Panchayat, Purulia 1 Block also certified that the respondent no.10 was a resident of the aforementioned Assembly Constituency since the last 15 years.

In the light of the findings, the authority came to a conclusion that there was enough evidence that the respondent no.10 was a local resident.

Neither the Writ Court nor the recruiting authority can go beyond the advertisement and the documents.

As per the advertisement, the eligibility criteria prescribed that the applicant should be a resident of the ASHA service village. The voter's identity card(EPIC) and the Ration Card were the documents of prove of residential status to be filed with the application. Thus, when the candidate complied with

the above formalities and documents as mentioned above were produced, neither the authorities nor this Court can go beyond such requirement and make further investigation as to whether, at any point of time, the respondent no.10 was a resident of Jharkhand.

With regard to the other allegations that the respondent no.10 could not be a voter in more than one State, such matter must be decided by the appropriate authority.

The petitioner had already approached the Chief Election Commissioner, West Bengal, in this regard.

The petitioner is given further liberty to approach the competent authority with regard to the allegation that the respondent no.10 had enrolled herself in the electoral rolls of both Jharkhand and West Bengal. If such application is made, the competent authority shall dispose of the same in accordance with law.

This order is restricted to the interpretation as to whether the respondent authority had rightly engaged the respondent no.10 or not.

The terms and conditions of the advertisement leading to the recruitment process have been fulfilled. Adequate residential proof as per requirement in the advertisement was produced

before the authority. The authority also made an enquiry pursuant to the order of this Court. Thus, for the purpose of disposal of the writ petition, no further steps are required to be taken.

This writ petition is disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the server copy of this order.

(Shampa Sarkar, J.)