

26.07.2023
Item No.06
Court No.6.
S. De

F.M.A. 166 of 2023
With
I.A. No. CAN/1/2023

Gita Rani Biswas (Mondal).
Vs
State of West Bengal & Ors.

Mr. Mahadeb Sarkar,
Mr. B. Chowdhury,
...for the appellant.

On the undertaking of learned advocate for the appellant to file affidavit of service in Court in course of the day, the appeal and the connected application are taken up for hearing.

In spite of service, nobody represents the State respondents.

This appeal is directed against a judgment and order dated November 16, 2022, whereby three writ petitions being WPA 1029 of 2015 (Smt. Gita Rani Biswas (Mondal) Vs. The State of West Bengal and Ors.), WPA 1031 of 2015 (Smt. Suniti Bala Howlader Vs. The State of West Bengal & Ors.) and WPA 1033 of 2015 (Smt. Rani Bala Mondal Vs. The State of West Bengal & Ors.), were dismissed by a learned Single Judge. One of the writ petitioners has come up by way of this appeal.

The appellant approached the learned Single Judge with the case that she had been appointed as 'Sahayika' under the Sarva Shiksha Mission some time in the year 2002. She continued to be in service till December 2014. Suddenly, by a communication dated December 12, 2014, the Block Development Officer, Gaighata discontinued her service with effect from December 11, 2014.

A report was filed before the learned Single Judge by Paschimbanga Rajya Shishu Shiksha Mission, the added respondent. From the report it appeared that at the time of engaging the appellant/writ petitioner, her citizenship had not been verified. Further the Paschimbanga Rajya Shishu Shiksha Mission does not recognize any degree or diploma issued by any Education Authority of Bangladesh.

The learned Judge noted that the writ petitioner had been issued show-cause notice by concerned Sub-Divisional Officer. The reply of the writ petitioner was not found to be satisfactory. Accordingly, her service was discontinued.

The learned Judge did not find any infirmity in the order of the S.D.O./B.D.O. Accordingly, the learned Judge dismissed the writ petition. Hence, this appeal.

We have heard learned advocate for the appellant. We do not find any apparent infirmity in the order under appeal. However, learned advocate for the appellant points out that the appellant belongs to financially weaker section of the society. The present appeal may be treated as a mercy appeal.

We find that the appellant had made a representation dated February 4, 2020 to the Sub-Divisional Officer, Bongaon Sub-Division and the Block Development Officer, Gaighata Block. Learned advocate says that such representation has not yet been considered.

On humanitarian grounds, we direct the Sub-Divisional Officer, Bongaon Sub-Division being the respondent No.3 herein, to dispose of the representation of the appellant/writ petitioner dated February 4, 2020, in accordance with law, by a reasoned order, within a period of eight weeks from the date of communication of this order along with a copy of the said representation, after affording an opportunity of hearing to the appellant or her authorized representative. The decision shall be communicated to the appellant within a week from the date of the decision.

We make it clear that we are not binding the hands of the Sub-Divisional Officer in any manner and we are not directing him to dispose of the appellant's

representation in any particular manner. However, the Sub-Divisional Officer shall dispose of the representation without being influenced by any previous order passed by him or the concerned Block Development Officer or any observation contained in the order of the learned Single Judge impugned before us.

Since we have not called for affidavits, the allegations contained in the stay application are deemed not to be admitted by the respondents.

FMA 166 of 2023 is disposed of along with the application being I.A. No. CAN 1 of 2023.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)