

17.3.2023
Ct.19/sl.37
sn

WPA 3632 of 2023

Rahima Khatun Bibi

Vs.

The State of West Bengal & Ors.

Mr. Shahan Shah
Mr. Imadul Biswas
...for the petitioner
Mr. Rezaul Hossain
...for the State

Prima facie, It appears that there is confusion with regard to the date of birth of the selected candidate. Supplementary affidavit is taken on record.

Despite service, none appears on behalf of the respondent no.9. Let the affidavit of service be taken on record.

The petitioner alleges that the respondent no.9, who was engaged as Asha was over-aged at the time of filing her application seeking to participate in the selection process.

Reliance has been placed on two voters' list of 2016 and 2018, which show that the selected candidate, namely, Firoza Bibi, wife of Idris Mondal was 39 years in 2016 and 41 years in 2018. Copies of the electoral rolls have been annexed to the writ petition.

In the supplementary affidavit, a kabilnama has been annexed showing that the Firoza Bibi was

married in 1995 to Idris Mondal. The age of Firoza Bibi as reflected in the last published electoral roll is 33 years. In that event, the selected candidate was only 6 years old at the time of her marriage.

The Sub Divisional Officer, Berhampore Sadar has filed a paragraph wise reply. It appears that the selected candidate Firoza Bibi obtained highest marks and the petitioner was the 3rd empanelled candidate. It is true that even if the selection of the respondent no.9 is found to be irregular, the petitioner would not be entitled to be engaged because there is a candidate who had secured higher marks than the petitioner. Yet, the participant is always entitled to ensure that the selection process in which she had participated was conducted fairly and strictly in compliance with the rules and the advertisement.

The advertisement provided that the applicant must be between 30 to 40 years as on January 1, 2022. The documents, which have been filed by the petitioner, have raised a doubt. The matter requires further enquiry.

The authorities relied on the date of birth of the selected candidate which was reflected in the Admit Card issued by the West Bengal Council of Rabindra Open Schooling Madhamik Examination- December 2011 is March 27, 1982. Thus, in view of

the controversy raised, endeavour of the Court must be to ensure that truth prevails and further that the selection had been made strictly in accordance with the advertisement. For such exercise, an enquiry should be made by the concerned Sub Divisional Officer through his machinery and through the police authorities. The genuineness of the admit card, electoral rolls etc. of the selected candidate shall be ascertained upon obtaining information as to whether the Admit Card submitted before the authority was a valid document and had been issued by the authorities of West Bengal Council of Rabindra Open Schooling Madhamik Examination-December 2011, or not.

Further enquiry based on other documents and electoral rolls, with regard to the actual age of the selected candidate shall also be made. The kabilnama shall be taken into account. Before such enquiry commences, the respondent no.9 should be intimated about the controversy, which has been raised.

This Court has not expressed any opinion on the correctness of the allegations made by the petitioner.

Upon completion of the enquiry, a report shall be prepared and supplied to the petitioner as also the

respondent no.9. The parties shall be heard. A reasoned order shall be passed and communicated.

Needless to mention, remedial and consequential steps shall be taken in case the appointment of the respondent no.9 was found to be contrary to the advertisement.

The entire exercise shall be completed within a period of twelve weeks from the date of communication of this order.

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.)