

05.06.2023
ML-57
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4998 of 2020

Sukla Barman
Vs.
The State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharya, Sr. Adv.,
Mr. Debabrata Mondal,
Mr. Asim Hati,
Ms. Sreetama Neogi,

....for the petitioner.

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas

....for the State.

Mr. Apurba Ghosh

....for the private respondent no.9.

By a reasoned order dated March 2, 2020 the Chief Medical Officer of Health (CMOH), Nadia held that the petitioner could not prove her residential address within the service area for which she was selected for the post of Accredited Social Health Activist (ASHA) Karmee by providing EPIC and/or ration card in support of her claim, as per the advertisement no.3253 published on December 15, 2017. Therefore, the candidature of the petitioner was cancelled and the candidature of the private respondent no.9 was accepted. The respondent no.9 was recommended for being engaged as ASHA. The respondent no.9 has since been appointed pursuant to an order passed by this Court.

Mr. Bhattachary, learned senior counsel appears on behalf of the petitioner and submits that the petitioner's present ration card that was issued on January 27, 2016 clearly recorded the place of residence to be in village – Baruipara, Gram Panchayat – Palsunda – I, Block – Tehatta – II, District – Nadia. The current ration card should have been taken into consideration and not the previous ration card issued on March 1, 2015.

Mr. Deb Roy, learned counsel appearing on behalf of the State respondents submits that the ration card produced during the personal hearing clearly recorded that she was a resident of village – Mejpota, Gram Panchayat – Dhananjoypur, Block – Nakshipara, District – Nadia.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that since the current ration card of the petitioner records her place of residence as village - Baruipara, Gram Panchayat-Palsunda - I, Block-Tehatta-II, the same may be considered by the respondent authorities when considering her candidature in future when a vacancy arises for ASHA Karmee in the same service area.

It is made clear that this Court has not gone into the issue whether or not the current ration card was

produced during the personal hearing or the previous one as recorded by the CMOH. Furthermore, this Court is of the view that since the petitioner is at present a resident of the service area for which the vacancy arose her candidature for the same will be considered in case she makes the necessary applications and complies with the necessary formalities when the vacancy arises next for the said area. The respondent authorities shall consider her candidature in the category for which she applied without raising any objection in respect of her age while considering the eligibility of the petitioner.

This Court is not willing to disturb the right that has already accrued in favour of the private respondent no.9 since she has been engaged in the post of a ASHA Karmee for the said area.

With the directions aforesaid, **WPA 4998 of 2020 is disposed of.**

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)