

16.05.2023
Ct. No.7
S/L No.10
KS

W.P.A. 7374 of 2021
Zulfekar Mahbubur Rahaman
-Vs.-
The State of West Bengal & Ors.

Mr. Shuvro P. Lahiri
Md. Habibur Rahaman
Mr. Rajesh Naskar

.....For the Petitioner

Mr. Debasish Mukhopadhyay
Mr. T. Kumari

.....For the Respondent Nos.4 & 5

Ms. Megha Chanda

.....For the Respondent No.6

1. The grievance of the petitioner is that though he has qualifications as well as experience to be appointed as “Work Sarkar (Field Supervisor)” under the Islampur Municipality, but his candidature has been wrongfully not considered by the Islampur Municipality and the private respondent no.6 was appointed though the said respondent does not have requisite experience for working as a Amin/Surveyor for demarcation of land.
2. Mr. Lahiri, learned advocate appearing for the petitioner draws the attention of this Court to several documents annexed to the writ petition to show that the writ petitioner has requisite experience in the matter of

demarcation of land and also that he has engaged by the Municipality to perform the work of a Surveyor for demarcation of land.

3. Learned advocate representing the private respondent no.6 submits that the said respondent also has experience in the work of demarcation of land as a Surveyor. She draws the attention of this Court to the certificate issued by the Sub-Assistant Engineer of Islampur Municipality dated July 5, 2016 in order to support her contention that the private respondent also has an experience in the work of demarcation of land.
4. In reply Mr. Lahiri, learned advocate appearing for the petitioner disputes the veracity of the certificate dated July 5, 2016 issued by the Sub-Assistant Engineer.
5. The learned advocate for the Islampur Municipality submits that the Municipality after taking into consideration the qualifications as well as the experience of the applicants have duly appointed the respondent no.6 to the post of Work Sarkar (Field Supervisor).
6. Heard learned advocates for the parties and perused the materials placed.
7. The parties have produced documents in support of their respective contentions that they have experience in the work of demarcation of land. The dispute as to the authenticity of the certificate issued by the Sub-Assistant

Engineer dated July 5, 2016, which has been raised by the learned advocate appearing for the petitioner in course of hearing of this writ petition, cannot be gone into by this Court under Article 226 of the Constitution of India.

8. Whether the private respondent had the requisite experience to be appointed to the post in question is a disputed question of fact which cannot be decided by way of exchange of affidavits. Such adjudication is to be left for the competent authority to decide.
9. It appears from the record that the petitioner had submitted a representation before various authorities challenging the approval of appointment of the private respondent under Islampur Municipality on various grounds including lack of experience of the said respondent.
10. In view thereof, this Court directs the Director of Local Bodies being the respondent no.2 herein to consider the representation of the petitioner dated February 2, 2021 and to dispose of the same after giving an opportunity of hearing to the petitioner, the Islampur Municipality as well as the private respondent no.6 or their authorized representatives and by passing a reasoned order. The said authority shall communicate the reasoned order to the parties immediately thereafter. The entire exercise shall be completed within a period of four weeks from the date

of receipt of server copy of this order along with a copy of the representation dated February 20, 2021.

11. It is, however, made clear that this Court has not gone into the veracity of the certificates as well as other documents produced by the respective parties to show their eligibility and other requisite qualifications for being appointed as Work Sarkar (Field Supervisor) and it would be open to the said respondent to decide the matter strictly in accordance with law without being influenced by the fact that this Court has refused to pass any mandatory order on the writ petition for cancellation of the appointment of the private respondent.
12. With the above observations, the writ petition stands disposed of.
13. There shall be no order as to costs.
14. It would be open to the parties to rely upon all documents in support of their respective contentions before such authority at the time of hearing.
15. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)