

Ct. 14.03
No. 14 2023
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W.P.A. 10902 of 2022

Manjura Khatun
-Versus-
The State of West Bengal & Ors.

Syed Shamsul Arefin **...For the Petitioner**

Ms. Chaitali Bhattacharjee
Mr. Kartik Chandra Kapas **...For the State Respondents**

Md. Sarwar Jahan
Mr. S.N. Thander
Mr. Asif Mehdi **...For the Respondent No. 7**
 Paschim Banga Rajya Shishu
 Shiksha Mission

Supplementary affidavit filed on behalf of the petitioner and report in the form of affidavit filed on behalf of the respondent No. 7 in Court be kept on record.

This is the third round of litigation preferred by the petitioner seeking direction upon the concerned respondents to issue engagement letter in her favour to join the post of third Sahayika in a Shishu Shiksha Kendra namely Pema Bilasibarihat Shishu Shiksha Kendra, Malda. Aggrieved by the selection process made by the Managing Committee of Pema Bilasibarihat Shishu Shiksha Kendra, the petitioner filed a writ petition being W.P. 13655 (W) of 2010 challenging the selection process. The petitioner complained in the writ petition that for the selection process of engagement of Sahayika (third post) in the said Shishu Shiksha Kendra she offered her candidature, but no call letter was issued to her to participate in the selection process. By order dated 19th July, 2010, a learned Single Judge disposed of the writ petition directing the District Nodal Officer to pass an order cancelling the earlier selection process and directing

the Managing Committee of the Shishu Shiksha Kendra to proceed afresh for filling up the post of Sahayika (third post) in the Shiksha Kendra.

In compliance with this order the District Nodal Officer directed the Block Development Officer to start process for engagement of Sahayika (third post) in the said Shishu Shiksha Kendra afresh subject to fulfilment of other terms and conditions as laid down in the prevailing Government Orders. But since then no selection process was conducted by the authority concerned.

Feeling aggrieved by the inaction on the part of the concerned authority the petitioner by preferring an another writ petition being W.P.A. 15995 of 2021 sought for direction so that she might be engaged as Sahayika after the initiation of the selection process.

The petitioner states that a learned Single Judge in the second writ petition passed an order directing the Block Development Officer to start a fresh process for engagement of Sahayika in the third post as directed by the District Nodal Officer and communicate the result thereby within a specified timeline. In compliance with the order of the learned Single Judge in W.P.A. 15995 of 2021 the Block Development Officer by the impugned Memo dated 7th June, 2022 intimated the petitioner that no new engagement of Sahayika could be made because of the Government Orders as prevailed then.

Challenging the Memo dated 7th June, 2022 the petitioner by preferring the instant writ petition as sought

for reliefs which, inter alia, are as under :-

“(a) Issue a writ in the nature of Mandamus commanding the respondent the men and agent directing the Block Development Officer Harishchandrapur-I, Malda, to issue appointment letter in favour of the petitioner for joining as 3rd Sahayika in Pema Bilasibarihat Shishu Shiksha Kendra, District – Malda.

“(b) Issue a writ in the nature of Certiorari directing the respondent the men and agent to produce all relevant records before this Court so that conscionable justice may be done.”

It appears from the order dated 19th July, 2010 passed by a learned Single Judge in W.P. 13655 (W) of 2010 that the writ petitioner brought the writ petition complaining of illegality in the selection process for appointment of Sahayika (third post) in the aforesaid Shishu Shiksha Kendra. She contended that though she offered her candidature, but no call letter was issued to her to participate in the selection process. The learned Single Bench by passing the order directed that in the event the District Nodal Officer till date of receipt of a copy of the order did not receive enquiry report from the Block Development Officer, he should issue an order cancelling the earlier process and direct the Managing Committee of the Shishu Shiksha Kendra to proceed afresh for filling up the post of Sahayika (third post).

As it appears, the District Nodal Officer, in compliance with the order, vide Memo dated 20th August, 2010, directed the Block Development Officer to start

process for engagement of Sahayika (third post) in the Shishu Shiksha Kendra subject to fulfilment of other terms and conditions as laid down in the prevailing Government Orders. By a Memo dated 8th October, 2010 the District Nodal Officer communicated this order to the petitioner.

Since no process for engagement of the Sahayika (third post) in the said Shishu Shiksha Kendra was initiated, the petitioner preferred the second writ petition, i.e. W.P.A. 15995 of 2021.

By order dated 27th January, 2022 a learned Single Bench disposed of the writ petition with the following observation :-

“This Court is of the opinion that the merits of the claim of the petitioner cannot be decided in the writ petition which has been filed almost after 12 years. The District Nodal Officer had directed the Block Development Officer to start a fresh process for engagement in the third post of Sahayika in 2010. It is also not on record whether pursuant to the said direction dated August 20, 2010, a process has been initiated by the Block Development Officer and some other person has been appointed.

Thus, this Court does not enter into the merits.

The writ petition is disposed of with a direction upon the Block Development Officer, Harishchandrapur Development Block – I, to intimate the petitioner the reasons as to why the prayer for the petitioner cannot be considered as submitted through his learned advocate for the state, before this Court. Such intimation shall reach the petitioner within a period of four months from the date of communication of this order.”

Learned Counsel appearing for the petitioner submits that in compliance with the order dated 19th July, 2010 passed by a learned Single Judge in the first writ petition, the District Nodal Officer directed the Block Development Officer to initiate the process of engagement of Sahayika (third post) as per existing Government Orders. According to the learned Counsel the existing Government Orders will relate back to the selection process already initiated and for which the panel of selected candidate was prepared. Learned Counsel submits that the selection process should be completed in terms of the Government Orders as prevailed before hand.

Per contra, learned Counsel appearing for the added respondent No. 7 as well as learned Counsel for the State respondents submit that while District Nodal Officer in compliance with the Court's order directed the Block Development Officer to initiate the selection process then the law relating to engagement of Sahayak/Sahayika or Samprasarak/Samprasatika had under gone a sea change. According to the learned Counsels the prevailing Government Orders will imply the Government Orders which were then in force.

As pointed out by the learned Counsels appearing for the answering respondents, the petitioner at paragraph 16 of the writ petition has averred that the learned Single Judge directed the Block Development Officer to start a fresh selection process and communicate the result thereby within a specified time. But on a reading of the order dated 27th January, 2022 passed in W.P.A 15995 of 2021 it appears that the order passed by the

learned Single Bench is otherwise as quoted above. The learned Single Judge directed the concerned Block Development Officer to intimate the petitioner the reasons as to why her prayer cannot be considered within a specified time.

Therefore, I find that there is no direction from the learned Single Bench upon the Block Development Officer to start a fresh selection process. That being so, the averments in the writ petition are contrary to the aforesaid order. The learned Single Judge in the same order has observed that the Court was of the view that the merits of the claim of the petitioner cannot be decided in the writ petition which has been filed almost after 12 years. This Bench is of the same view as recorded in the aforesaid order.

As it is evident, the Block Development Officer, in compliance with the order dated 27th January, 2022, communicated the decision of him to the petitioner vide Memo dated 7th June, 2022.

On perusal of the memo dated 7th June, 2022 and the relevant Government Orders as placed before this Bench at the time of hearing I find that the reasons as assigned by the Block Development Officer in the Memo dated 7th June, 2022 are quite justified.

Therefore, in view of the observations as above I do not find any merit in the writ petition to succeed.

Accordingly, the writ petition is dismissed on contest.

There will be no order as to costs.

All parties may act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat copy of the order, if applied for, be supplied to the appellant on priority basis on compliance of necessary formalities, on priority basis.

(*Rabindranath Samanta, J.*)