

D/L
Item No. 03
23.08.2023
KOLE

**MAT 951 of 2023
With
IA CAN 1 of 2023**

**Serina Khatun
-Vs.-
The State of West Bengal & Ors.**

*Mr. Golam Mostafa,
Mr. T. S. Samanta,
Mr. J. Sardar*

...for the appellant.

*Mr. Rajarshi Basu,
Mr. Rupsha Chakraborty,*

.... For the State.

By consent of the parties, the appeal and the connected application are taken up for hearing together.

A judgment and order dated February 27, 2023, whereby the appellant's writ petition being WPA No. 1984 of 2023 was in effect dismissed, is under challenge in this appeal, at the instance of the writ petitioner.

The appellant/writ petitioner and the private respondent had both participated in a selection process for appointment to the post of Asha in Talgacchi Sub-Center. The private respondent was declared to be the successful candidate and was given appointment. Challenging such appointment the appellant approached the learned Single Judge contending that on correct evaluation, she would be seen to have secured more marks than the private respondent.

The learned Judge called for a report from the concerned Sub-divisional Officer. Such report was filed.

Having considered such report and having heard learned Counsel for the parties, the learned Judge came to the finding that there is no illegality in the appointment of the private respondent. Accordingly, the writ petition was disposed of without any orders being passed. Hence this appeal.

Mr. Mostafa, learned Advocate representing the appellant/writ petitioner tried to impress upon us that had the petitioner being allotted two marks that she was entitled to as she was a member of a self-help group, then the total marks of the petitioner would have been more than the total marks secured by the private respondent. However, two marks were not added to the total marks of the writ petitioner.

We requested learned Advocate for the appellant to produce any document to show that as on the date of the application being made by the writ petitioner and even on the date of appointment, she was a member of a registered self-help group. No such document could be produced. There is a clear finding of the learned Judge that after the writ petitioner filed application for participating in the selection process, the self-help group was constituted.

Even otherwise, we find from the report of the Sub-divisional Officer which was placed before the learned Single Judge and which has also been placed before us, that the total marks obtained in the selection process by the petitioner was 39.72, whereas the private respondent secured 44.42. Therefore, even if two marks is added to the total marks of the writ petitioner, still, the marks secured by

the private respondent would be higher than the marks secured by the appellant/writ petitioner. The report is taken on record.

In view of the aforesaid, we find no infirmity in the appointment of the private respondent in the post concerned. We also find no error in the judgment and order impugned before us.

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

The appeal and the connected application are, accordingly, dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)