

03 03.10.2023

Ct-08

ar

MAT 1159 of 2023

with
I.A No. CAN 1 of 2023

**Shilpi Rakshit
Vs.
State of West Bengal & Ors.**

Mr. Firdos Shamim
Ms. Gopa Biswas
Ms. Mousumi Hazra
Ms. Payel Shome
Ms. Sampriti Saha
... For the Appellant

Mr. Ratul Biswas
Mr. Kaushik Chowdhury
... For WBBPE

Mr. Biswabrata Basu Mallick, Ld. AGP
Mr. Sanjib Das
... For the State

Mr. Sailendra Kumar Tewari
... For the Respondent no. 5

1. We have heard the learned counsel appearing for the parties.

2. The appeal is arising out of an order dated 20th February, 2023 by which the petitioner was allowed to participate in the selection process as a general category candidate and not as a physically disabled candidate.

3. It is submitted on behalf of the appellant that in terms of the Certificate issued by the Orthopedic Hospital, Eastern Railway and the final opinion of the Medical Board of S.S.K.M Hospital dated 8th February, 2023 the disability percentage on the

date of examination was 52% and is temporary in nature.

4. It is further submitted on behalf of the appellant that in terms of Section 56 of the Rights of Persons with Disabilities Act 2016 & Rules 2017 guidelines for evaluation of various disabilities and procedure for certification has been published in which it has been stated that the Certificate would be valid for a period of five years for those whose disability is temporary.

5. In view of the fact that the S.S.K.M Hospital has given opinion that the percentage of disability of the petitioner is 52% and such disability is temporary in nature, the petitioner may be allowed to participate in the selection process as a physically disabled candidate subject to the Rules of the State permitting the said percentage of disability to be considered in the selection process, otherwise, as directed by the learned Single Judge, she may be allowed to participate in the selection process as a general category candidate.

6. In the event, the petitioner's approach to the Board subsequent to the impugned order only in that event her application may be considered.

7. In the event her application is rejected, a communication may be made to the petitioner in

this regard.

8. Impugned order is modified to the aforesaid extent.

9. In view of the aforesaid, the appeal being MAT 1159 of 2023 stands disposed of.

10. In view of the disposal of the appeal, the application for stay being CAN 1 of 2023 is accordingly disposed of.

11. However, there shall be no order as to costs.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

