

10.
28-11-2023
(Ct. no.06)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
APPELLATE SIDE**

**MAT 1233 of 2023
+
IA NO:CAN/1/2023**

**Prasantika Parvin
Vs.
State of West Bengal & Ors.**

Mr. Md. Yousuf Ali

... For the Appellant.

Mr. Somnath Ganguli, learned A.G.P.,
Mr. Balarko Sen,
Ms. Kalpita Paul

... For the State.

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

In this appeal, the order dated April 28, 2023 passed by a learned Single Judge in WPA 17590 of 2022 has been impugned.

We have heard learned advocates for the parties at length.

Before the learned Single Judge, the present appellant, being the writ petitioner, challenged the appointment of the private respondent no.9, Naziya Khanam, as an 'ASHA Karmi' in Swarupnagar Village under Begumpur Bishnupur Gram Panchayat. Before the Writ Court, it was the contention of the writ petitioner that the appointment of the private respondent no.9 was not in accordance with the guidelines for appointment of the 'ASHA Karmi', as published by the Health and Family Welfare

Department, Government of West Bengal. The learned Single Judge in the impugned order, found that the private respondent no.9 belonged to the village Swarupnagar in respect of which she has been appointed as an 'ASHA Karmi' and, thus, found no illegality and/or infirmity in her appointment and, accordingly, dismissed the instant writ petition.

Being aggrieved, the writ petitioner has approached this Court by way of this appeal.

Drawing our attention to page nos.21 and 25 of the writ petition, which has been annexed with CAN 1 of 2023 filed in connection with this appeal, vis-à-vis page no.10 of the affidavit of the respondent no.9, it is argued on behalf of the appellant/writ petitioner that the learned Single Judge, while passing the impugned order, has failed to visualize that though the private respondent no.9 belongs to the same village, but, she resides under a different Gram Panchayat and that the vacancy was notified in respect of a separate 'Upa Swastha Kendra' under whose territory the present appellant resides and not the private respondent no.9.

While opposing the contention raised by learned advocate for the appellant, learned advocate for the State draws our attention to page no.21 of the affidavit filed by his client which is the revised guideline dated June 27, 2012, passed by the Health and Family Welfare Department, Government of West Bengal, being Memo no.HFW/NRHM-20/2006/(Part II)/1631, for selection of 'ASHAs'. It is contended on behalf of the respondent no.7/State that sub-clause (B.2) of Clause 'B' categorically mentions that the candidate should be a resident of the same village for which she will be selected. It is, thus, argued that

since the private respondent no.9 belongs to the same village, by no stretch of imagination, it can be said that her selection as an 'ASHA Karmi' was illegal.

On perusal of the entire materials as placed before us and after hearing learned advocates for the contending parties, we are satisfied that the private respondent no.9 is a resident of Village-Swarupnagar where the present appellant, being the writ petitioner, also resides. From the revised guideline dated June 27, 2012, we find that one of the eligibility criteria for being selected as an 'ASHA Karmi' is – *“B.2: Should be a resident of the same village for which she will be selected”*.

On a perusal of the aforesaid condition, vis-à-vis, the materials placed before us, we find that the private respondent no.9 belongs to the same village for which she has been appointed as an 'ASHA Karmi'. The argument of learned advocate for the appellant/writ petitioner that the person selected should be of the same 'Upa Swastha Kendra', does not find any place in the aforesaid revised guideline.

Such being the position, we are of the considered view that there is little scope to interfere with the judgment impugned.

We, thus, find no merit in the instant appeal and the same is, accordingly, dismissed along with the connected application. As a result, the impugned order dated April 28, 2023 passed by the learned Single Judge in WPA 17590 of 2022 is hereby affirmed.

While disposing of the instant appeal, we, however, make it clear that we have not gone into the

merits with regard to the other eligibility criteria either of the present appellant/writ petitioner or of the private respondent no.9.

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

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

(Partha Sarathi Sen, J.) (Arijit Banerjee, J.)