

27.09.2023
DL-03
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20279 of 2023

Suratun Begum
Vs.
The State of West Bengal & Ors.

Mr. Partha Sarathi Das,
Mr. Md. Hafiz Ali,
Ms. Shanta Sarkar,
Mr. Debojyoti De

....for the petitioner.

Mr. Arjun Ray Mukherjee,
Ms. Amrita Panja Moulick

....for the State.

The petitioner's grievance in the writ petition is that 3 candidates who belonged to the Scheduled Caste (SC) category have been appointed against the vacancies, which arose for unreserved category candidates. The petitioner is working as an Anganwadi Helper (AWH) in the office of the Child Development Project Officer (CDPO) at Bharatpur-I ICDS Project, Murshidabad. There were 17 vacancies in the unreserved category, 8 vacancies in SC category and 2 vacancies in ST category for the promotional post of Anganwadi Worker (AWW). However, 3 candidates who were selected against the vacancies in unreserved category belonged to SC category.

Attention of this Court was drawn to page 22 of the writ petition on previous occasion to contend that Mita Majhi, Saraswati Das and Kakali Mondal are all SC candidates who have been appointed against the vacancies reserved for UR candidates.

Mr. Ray Mukherjee, learned counsel appearing on behalf of the State respondents hands over the entire merit list of the candidates who appeared in the written examination and viva-voce for engagement to the post of AWW. Such merit list is dated December 6, 2022. The same is retained with the records.

From the said merit list, it appears that Mita Majhi obtained 27.8 marks, Saraswati Das obtained 25.8 marks and Kakali Mondal obtained 24.2 marks. The petitioner herself obtained 23 marks.

He submits that it is a well-settled proposition of law that if the reserved category candidates are found more meritorious than the unreserved category candidates, they will be considered for appointment against the vacancies which are earmarked for general category candidates. He refers to a decision reported in AIR 1993 SC 477 (**Indra Sawhney vs. Union of India & ors.**) and also a judgment reported in (2022) 11 SC 779 (**Bharat Sanchar Nigam Limited & Anr. vs. Sandeep Choudhary & Ors.**) in support of his contention.

After the merit list was handed over to the learned counsel appearing for the petitioner it is now sought to be contended that the names of the candidates appearing at serial nos. 25 and 26 are not SC candidates but general category candidates. Therefore, it is sought to be contended that there is manipulation in the said merit panel.

Considering the submissions of the parties and the materials placed on record, this Court finds that there is no infirmity in the decision making process of the State respondents since it is well-settled proposition of law that more meritorious candidates in reserved category can be and should be considered for vacancies that are meant for general category candidates and once the said reserved category candidates are considered for appointment as general category candidates, the vacancies which arise in the reserved category shall be filled up by reserved category candidates.

From the list annexed at page 22 of the writ petition, it appears that the selected candidates in SC category are not the ones whose names appear in serial nos. 25 and 26 of the merit panel, handed over by the State respondents.

Therefore, this Court fails to appreciate how by recording the names of the candidates at serial

nos.25 and 26 of the merit panel as SC candidates any infirmity has been committed by the State respondents or what advantage the said candidates were given.

Furthermore, this Court also has not been able to find any pleading with regard to the aforesaid submission made on behalf of the petitioner.

Accordingly, this Court is of the opinion that there is no infirmity, perversity or illegality in the decision making process of the State respondents.

The writ Court cannot permit a roving enquiry by the petitioner where the petitioner has not been able to show any violation of her right.

Accordingly, there is no merit in the present writ petition.

WPA 20279 of 2023 is dismissed.

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

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

(Lapita Banerji, J.)