

Sl.973
6.1.2023
Court. No. 19
sn

WPA 24121 of 2017

**Sathi Mondal
Vs.
The State of West Bengal & Ors.**

**Mr. Pankaj Halder
Mr. Sanatan Panja
Mr. Tapas Manna
Mr. Subhrangshu Maity
..for the petitioner**
**Mr. L.M. Mahata
Mr. P.B. Mahata
..for the State**

Liberty is granted to the learned advocate on record for the petitioner to add the Sub Divisional Officer, Jangipur as a party respondent, here and now. Mr. Mahata will accept notice on behalf of the said respondent.

None appears on behalf of the respondent No.8. Learned advocate for the respondent no.8, who had appeared before this Court on October 23, 2017, refused to accept the notice. The affidavit in opposition used by the said respondent has been prepared by the said learned Advocate. The petitioner was asked to serve a notice upon the respondent no.8 at her residence. Such notice was served and the affidavit of service and track report indicate that the notice had been delivered. The affidavit of service is taken on record.

Under such circumstances, the matter is taken up for hearing in the absence of the said respondent.

The allegation of the petitioner is that the respondent no.8 was appointed on the basis of a fake mark-sheet obtained from a non-existent Board. Such mark-sheet has been annexed at page 35 of the writ petition.

The learned advocate for the State respondents have filed certain documents. It appears that the Superintendent of Police, DIB, Murshidabad had conducted an enquiry with regard to the educational qualification of the respondent no.8.

By a letter dated February 23, 2018, the Superintendent of Police, DIB, Murshidabad, intimated the Sub Divisional Officer, Jangipur that the respondent no.8 was admitted at Kantanagar High School in Class-V, in the year 2003. She appeared at the Madhyamik Examination from the said school in the year 2008, but was unsuccessful. Her date of birth as per the records of the said school was May 7, 1990.

During the enquiry, the respondent no.8 submitted a hand written statement, inter alia, stating that she had passed the Madhyamik Examination from Sarbadaya S.R. Open School under Police Station Raghunathganj, in 2012. The enquiry officer could not verify the same as the said open school did not exist at the time of such enquiry.

Such report was sent to the Chief Medical Officer of Health, Murshidabad by the Sub Divisional Officer,

Jangipur for necessary information. A copy of the written declaration of the respondent no.8, has been filed before this Court. The report of the Superintendent of Police, DIB, Murshidabad and mark sheet indicating that the respondent no.8 failed in the Madhyamik Examination in 2008, have been placed before this Court.

Although the petitioner stated that she had passed the Madhyamik examination from Sarbadaya S.R. Open School, the mark sheet which has been annexed to the writ petition was issued by the Higher Secondary Education Board, Delhi. There appears to be contradictions in the facts.

The authorities upon making an enquiry through the Superintendent of Police, DIB, Murshidabad got the brief background of the education of the respondent no.8. She studied in Kantanagar High School. She appeared at the Madhyamik Examination conducted by the West Bengal Board of Secondary Education in 2008 and was unsuccessful. The factum of taking the examination in 2012 from Sarbadaya S.R. Open School could not be verified, as the open school did not exist at the time of such enquiry. No certificate or mark sheet was produced indicating the correctness of such statement. Thus there was no proof of the fact that the

respondent No.8 had passed the Madhyamik or its equivalent examination.

The respondent no.8 did not submit any document during such enquiry, showing that she had passed Madhyamik Examination or its equivalent through open schooling in 2012. On the contrary, the document at page 35 of the writ petition which was allegedly submitted by the respondent no.8 before the Chief Medical Officer of Health, Murshidabad at the time of a hearing before the said authority, did not tally with the declaration given to the DIB by the said respondent.

The Superintendent of Police, DIB, Murshidabad after a detailed enquiry, could not lay his hands on any document showing that the respondent no.8 had passed the Madhyamik examination or its equivalent from any other Board. This was the minimum educational qualification for appointment as ASHA.

Under such circumstances, this writ petition is disposed of with a direction upon the Sub Divisional Officer, Jangipur to take immediate steps with regard to the complaint lodged by the petitioner on the basis of the report of the Superintendent of Police, DIB, Murshidabad and the documents filed before this Court by the learned advocate for the State respondents.

Prima facie, view of the Court is that the respondent no.8 has been working on the basis of a fake certificate and without the minimum qualification. Records and the enquiry, prima facie, reveal that the respondent no. 8 did not have the minimum qualification of Madhyamik examination or its equivalent.

The writ petition, affidavit-in-opposition and affidavit in reply shall be taken into consideration by the Sub Divisional Officer, Jangipur and a reasoned order shall be passed and communicated to all. Thereafter, steps shall be taken in accordance with law. If it is found that the appointment of the respondent No.8 was void ab initio all consequential steps shall follow in accordance with law. The petitioner claims to be the second empanelled candidate. An opportunity of hearing shall be given to the petitioner as also the respondent no.8. If the respondent no.8 does not appear at the hearing, the matter will be proceeded with ex parte.

The entire exercise shall be completed within a period of four weeks from the date of communication of this order.

The petitioner is directed to serve a copy of the writ petition, the affidavit in opposition, the affidavit in reply and a server copy of this order upon the Sub Divisional Officer, Jangipur.

This writ petition is disposed of.

There will be, however, no order as to costs.

All parties are directed to act server copy of this order.

(Shampa Sarkar, J.)