

14.12.2023.
Court No.13
Item No. 4
ap

W.P.A. No. 26898 of 2023

**Puspa (Roy) Mallik
Versus
The State of West Bengal & Ors.**

Mr. Robiul Islam,
Mr. Raju Mondal,
Mr. Masooq Rahman.

...For the petitioner.

Mr. Pritam Choudhury,
Mr. Saikat Sen.

...For the State.

1. Despite service of notice, the private respondent is not represented. Affidavit-of-service filed in Court today be taken on record.
2. Pursuant to the order of a Co-ordinate Bench of this Court dated 26th February, 2019 passed in W.P. No. 2890 (W) of 2018, the Block Medical Officer of Health (in short 'BMOH'), Karnasubarna, Berhampore, Murshidabad has conducted a hearing inviting all the parties to the writ petition.
3. It was found that the private respondent, was not a resident of the same circle for which Asha Karmee was being recruited.
4. The BMOH has indicated the same in his order and has expressed surprise as to how the private respondent, namely, Rina Ghosh (Majhi) was at all called for interview in Rameswarpur Mukundapur Sansad.

5. It is, however, an admitted position that both the petitioner and the private respondent are within the same Gram Panchayat. There is some grey area as to whether the recruitment to the post of Asha Karmee in this process invited applications residing within the same Circle/Sansad or from the entire Gram Panchayat area.

6. Propriety would demand persons residing in the same circle to be recruited as Asha Karmee in the said circle. The proximity and accessibility of the candidates concerned must be borne in mind.

7. Counsel for the State, however, submits that the petitioner might not have satisfied the minimum age criteria at the time when recruitment process was undertaken.

8. In those circumstances, this Court directs the Sub-Divisional Officer, Berhampore Sadar, Murshidabad being the respondent no.4 to ascertain as to whether in the instant case the Recruitment Rules did permit persons from other circles to participate in the recruitment process to the post of Asha Karmee albeit under the same Gram Panchayat.

9. Until an appropriate decision is taken by the Sub-Divisional Officer, Berhampore Sadar, Murshidabad, the appointment of the private respondent shall remain in abeyance.

10. Let a final decision be taken by the Sub-Divisional Officer, Berhampore Sadar, Murshidabad as

to whether petitioner or the private respondent ought to be appointed as per the Recruitment Rules in question mandatorily and positively within a period of one month from the date of receipt of a copy of this order.

11. With the aforesaid directions, the instant writ petition shall stand disposed of.

12. There will be no order as to costs.

13. The parties shall communicate this order to the Sub-Divisional Officer, Berhampore Sadar, Murshidabad and the private respondent.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)