

Item No.9
27.02.2023
Court. No. 19
GB

WPA 28735 of 2022

Musfenur Khatun
Vs
The State of West Bengal & Ors.

*Mr. Golam Mastafa,
Mr. Samirul Sardar*

...for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata*

...for the State.

Perused the report filed by the Sub-Divisional Officer,
Malda Sadar.

On the last occasion, Mr. Mahata learned Additional
Government Pleader had submitted that the allegation of the
petitioner that her candidature had been cancelled without
giving her an opportunity of hearing, was incorrect.

A writ petition had been filed by one Miratun Nehar,
one of the applicants for the post of ASHA, for the Khordohil
service village, under Sahajadpur Gram Panchayat. The said
writ petition is pending.

On receiving notice of the pendency of the writ
petition and the complaint of Miratun Nehar, an enquiry was
conducted by the ASHA selection committee. A notice was
issued to both Miratun Nehar and Musfenur Khatun by the
Secretary of the ASHA selection committee to hear the
allegation of Miratun Nehar that the petitioner was not a
resident of the service village. Both the candidates appeared
before the authority. Their attendance was recorded and on
verification of the documents of Musfenur Khatun, including

the voter ID card, the authority arrived at the conclusion that the petitioner was a resident of Bagdol village. The said finding of the authority is supported by all the documents which have been supplied by the petitioner in the supplementary affidavit. In the Aadhar card, Voter ID card and the Ration card, the address of the petitioner has been mentioned as village, Bagdol.

The issue was whether an opportunity of hearing to the petitioner had been given and whether the ASHA selection committee had applied its mind to the entire controversy, before taking necessary steps.

The Court had asked Mr. Mahata to file documents of the proceedings held before the ASHA selection committee. A copy of the entire proceeding has been filed before the Court. It appears that many complaints of similar nature had been disposed of in one proceeding upon hearing the relevant interested parties.

The selection committee comprised of experts, who were authorized to prescribe the terms and conditions for appointment of an ASHA. In this case, the regulations provide that the applicants or the candidates have to be residents of the ASHA service village. Documents produced by the petitioner indicates that the petitioner is not a resident of the ASHA service village but a resident of Bagdol village. The authority found on enquiry, that the petitioner was a resident of Bagdol village. Opportunity of hearing was given to the petitioner and thereafter a decision was taken.

Thus, the Court does not find any irregularity in the decision of the authority. Moreover, the petitioner has not been able to show that the authority had decided the issue either contrary to law or in ignorance thereof.

Accordingly, the writ petition is disposed of without any orders.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)