

WPA 11431 OF 2020

Dr. Bijoy Biswas & Ors.

Vs.

The Union of India & Ors.

Mr. Arunava Ghosh
Mr. Anant Kr. Shaw
Mr. Mainak Ganguly.

....For the Petitioners

Mr. Subit Majumdar

....For the UOI

Mr. Himadri Sikhar Chakraborty
Ms. Debdooti Dutta.

....For the State

Affidavits-in-reply filed on behalf of the petitioners,
are taken on record.

The respondent no.2 also filed its affidavit-in-
opposition, the same is also taken on record.

The 118 writ petitioners are before this Court
through this single writ petition. The learned counsel
appearing for the writ petitioners submitted that the
necessary *ad valorem* court fees have already been paid.

The petitioners claimed to be **AYUSH doctors**
appointed on contractual basis by the respective gram
panchayats under a particular Central Government
Scheme called **National Rural Health Mission Scheme**
(NRHM), presently known as **National Health Mission**
(NHM). **They claimed pay parity with those of the**
doctors who were appointed under the same scheme

but recruited through the Ministry of Health & Family Welfare Department of the State.

Mr. Arunava Ghosh, learned counsel being ably assisted by Mr. Anant Kr. Shaw, learned counsel submitted that both the Central and State Governments have recognised the petitioners' services being rendered in on an equal footing with those of the doctors who were recruited through the said ***Ministry of Health and Family Welfare Department of the State***. He further drew attention of this Court to several documents from the records that ***both the Central and State Governments, on principle, accepted that a pay parity should be there between the said two classes of doctors who treat the society at large.***

Drawing attention to page 9 of the exception affidavit filed by the writ petitioners, affirmed on January 24, 2022, Mr. Ghosh submitted that this document would spell the terms and conditions of appointment of the petitioners.

Mr. Himadri Sikhar Chakraborty, learned counsel appears for the respondent nos. 3, 4 and 5. He submitted that for the appointment of the said ***AYUSH doctors*** no recruitment rule was followed, no selection process was conducted and no age limit was mentioned.

Mr. Subit Majumdar, learned counsel appears for the Union of India. He submitted that the petitioners are the contractual employees employed by the State

Government. He further submitted that the petitioners were appointed by the respective gram panchayats.

Considering the submissions made on behalf of the appearing parties and upon perusal of the materials on record, it appears to this Court that, to consider the issue involved in this writ petition for ***equal pay for equal work*** as claimed by the petitioners, several factual aspects and technical aspects need to be gone into. In such circumstance, this Court is of the firm view that to subserve justice the highest executive authority of the State, viz. ***The Chief Secretary to the State of West Bengal*** should be directed and is directed to consider the comprehensive representations made by the petitioners dated August 3, 2020, ***Annexure – P12 at page 86*** to the writ petition read with September 8, 2020 at page 95 to the writ petition upon giving at least seven days' prior hearing notice to the petitioners' advocate on record, ***Mr. Mainak Ganguly (Mob. No.9674451302)*** and the respondent nos. 3, 4 and 5 and after giving them an opportunity of hearing shall decide the issue raised by the petitioners in the writ petition and pass its reasoned order/decision in accordance with law.

This entire exercise, as directed above, shall be carried out and completed by ***The Chief Secretary to the State of West Bengal*** positively within a period of ***ten weeks*** from the date of communication of this reasoned order. ***The Chief Secretary to the State of***

West Bengal then shall communicate its reasoned order/decision to the writ petitioners' advocate on record and the respondent nos. 3, 4 and 5 within a further period of two weeks thereafter.

The writ petitioners shall be at liberty to participate in the said hearing through their duly authorised representative.

It is made clear that this Court has not gone into the merits of the claim of the writ petitioners in any manner and the petitioners and all other parties, as directed above, shall be at liberty to urge whatever points they wish to urge by relying upon whatever documents and records they wish to rely upon before **The Chief Secretary to the State of West Bengal**.

In the event the said reasoned order/decision of **The Chief Secretary to the State of West Bengal** goes in favour of the petitioners, then **The Chief Secretary to the State of West Bengal** shall take all further and consequential steps to execute and implement the same positively within a further period of six weeks from the date of the said reasoned order/decision to be passed by him.

It is needless to mention that **The Chief Secretary to the State of West Bengal** shall take into consideration the documents at pages 83, 84, 85; 73, 74 to the writ petition and pages 9 and 17 to the said exception affidavit and also page 35 of the affidavit-in-

opposition filed by the respondent nos. 3, 4, and 5 affirmed on January 8, 2022 along with other documents.

The petitioners shall be at liberty to file their written notes of arguments during the hearing.

On the above terms, this writ petition, **WPA 11431 of 2020** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)