

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

**Before:
The Hon'ble Justice Jay Sengupta**

W.P.A. 1064 of 2023

**Parul Bala Das & Ors.
Vs.
The State of West Bengal & Ors.**

For the Petitioner : Ms. Suman Sehanabis (Mandal), Adv.
Mr. Salok Sah, Adv.

For the State : Mr. Hirak Barman, Adv.
Ms. Bedashruti Bose, Adv.

Heard on : 7th June, 2023

Judgment Dated : 7th June, 2023

Jay Sengupta, J.: This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to cancel and/or withdraw the orders of cancellation of appointment of the petitioners vide memo nos.133/1(9)/Cob-I/ICDS, 129/1(9)/Cob-I/ICDS, 141/1(9)/Cob-I/ICDS, 127/1(9)/Cob-I/ICDS, dated 14.03.2013 issued by the Child Development Project Officer, Cooch Behar-1 ICDS Project, Ghughumari, Cooch Behar.

Learned Counsel appearing for the petitioners submits as follows. In 2009 the petitioners applied for post of Anganwari Sahayika/Helper, as candidates belonging to the Schedule Caste. The recruitment process had been initiated vide notification no. 159 dated 20.11.2009. After

verification of all the documents, the concerned authorities issued call letters for interview. Viva tests were done. Subsequently, certain litigations intervened. On 14.03.2022 the concerned authorities found that the petitioners had secured sufficient marks and issued appointment letters. However, on 27.05.2022 the Child Development Project Officer, Cooch Behar-1 ICDS Project, Ghughumari, Cooch Behar, asked the petitioners to appear for further verification of their respective caste certificates. By impugned memo nos.133/1(9)/Cob-I/ICDS, 129/1(9)/Cob-I/ICDS, 141/1(9)/Cob-I/ICDS, 127/1(9)/Cob-I/ICDS, dated 14.03.23, the appointment letters were cancelled on the ground that the caste certificates were obtained later on. The petitioners had applied for the post in the category of Scheduled Caste. There is no doubt that the petitioners were belonging to the said category and that is exactly why they had applied for the same. The fact that the petitioners were belonging to a particular caste was by dint of their birth. It did not matter whether the certificate about them belonging to a particular caste were obtained on a subsequent date. On the point that candidature of persons could not be cancelled on the ground of late submission of caste certificates, reliance was placed in the decision of the Apex Court in ***Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board*** reported in **2016 (4)SCC 754** and an unreported decision of this Court passed in the case of ***Smt. Ruma Roy Sarkar vs. The State of West Bengal*** of this Court in WP No. 15032 (w) of 2018 on 28.08.2018.

Learned Counsel appearing on behalf of the State submits as follows. There was a specific condition that caste certificates were to be submitted along with the applications for the post. The petitioner could not supply the same earlier because of non-availability of the cast certificate and certain litigation intervened. Since the petition could not submit the respective cast certificates even at the time of joining, appointment letters were quite rightly cancelled.

I have heard the learned Counsels for the respective parties and have perused the writ petition.

The condition to obtain and produce caste certificates along with applications for a job is not akin to, for instance, producing a lease deed at the time of applying for a petrol pump dealership. Unlike an ownership of property, a caste to which a person belongs, is attached to him as an identity at the time of his birth. That is why whether the certificates were obtained before or after the application for a particular job is not much relevant.

The petitioner has rightly placed reliance on the decisions of **Ram Kumar Gijroya** (supra), and **Smt. Ruma Roy Sarkar** (supra) on the point that the applications of those candidates who belonged to SC, ST categories could not be rejected simply on the ground of late submission of cast certificates.

In view of the above, the impugned memos issued by the respondent authorities cancelling appointments of the petitioners could

not be sustained in the eye of law. Accordingly, the same are quashed and set aside.

Urgent Xerox certified copy of this order, if applied for, be supplied on priority basis.

(Jay Sengupta, J.)