

S/L 76
26.06.2024
Court. No. 551
Sourav

WPA 6131 of 2021

Laily Begum
Vs.
The State of West Bengal & Ors.

Mr. Robiul Islam

...for the petitioner.

Mr. Animesh Mukherjee

...for the private respondent no. 6.

Mr. Md. Sarwar Jahan

Mr. Sk. Nayeel Hoque

...for the respondent no. 4.

1. The petitioner, the respondent no. 4 and the private respondent no. 6 are represented by their respective learned advocates.
2. The report as submitted by the respondent no. 4 i.e., on behalf of the Chairman, Murshidabad District Primary School Council is taken on record.
3. By filing the instant writ petition, the writ petitioner has prayed for issuance of writ of mandamus for cancellation of the appointment of the respondent no. 6 who got such appointment on compassionate ground since the husband of the petitioner and the father of the private respondent no. 6 died-in-harness on February 23, 2011 while serving in the post of Head Teacher at Immamnagar Primary School.
4. It is contended on behalf of the petitioner that at the time of securing appointment on die-in-harness ground, the private respondent no. 6 who is one of the sons of the writ petitioner had given an undertaking in

writing that after getting employment, he would maintain and look after the family members of the deceased. By filing the instant writ petition, it has been alleged by the writ petitioner that after obtaining appointment, as an Assistant Teacher at Aradanga Adivasi Primary School, the private respondent no. 6 failed and neglected to look after the family members of the writ petitioner and he never helped the writ petitioner financially in gross violation of the undertaking as given by him.

5. It is further submitted that the factum of such neglect and misbehaviour was reported to the jurisdictional police station as well as DI of Schools but of no effect.
6. Per contra, learned Counsel appearing on behalf of the private respondent no. 6 draws attention of this Court to the affidavit-in-opposition as filed in this writ petition. It is submitted that from the annexure to the affidavit-in-opposition as well as from the averments made in the affidavit-in-opposition, it would reveal that after the death of the husband of the writ petitioner and the father of the private respondent no. 6, a family settlement was arrived at for which the private respondent no. 6 had transferred several plots of lands in favour of his siblings then and thereafter only the said brothers and sisters as well as the mother of the private respondent no. 6 i.e. the writ petitioner herein gave no objection with regard to the compassionate appointment of the writ petitioner.

7. It is further contended on behalf of the private respondent no. 6 that the writ petitioner is working as a Second Sahayak of Brahmani Gram SSK under Sagardighi Block and apart from that she is getting family pension of her deceased husband. It is further submitted that the another brother of Sk. Mustafa Kamal is an M.Tech. in Electrical Engineering and Lecturer in a Polytechnic Institute in Murshidabad and the said brother of the private respondent no. 6 is demanding more land from the writ petitioner and in order to create pressure, the instant writ petition has been filed.
8. Learned Counsel appearing on behalf of the respondent no. 4 in course of his argument draws attention of this Court to the report as filed today. It is submitted that the writ petitioner is getting family pension and in absence of any alleged misconduct on the part of the private respondent no. 6, no disciplinary proceedings could be drawn up for dismissal from service.
9. On perusal of the entire materials as placed before this Court, it appears that the instant writ petition is the outcome of a family dispute. There are allegations, denial and counter allegations. In considered view of this Court, sitting in writ jurisdiction, this Court cannot decide the merits and demerits of such allegations and counter allegations and in further considered view of this Court the veracity of such allegations and counter allegations are to be decided

by recording of evidence which machinery this Court does not possess.

10. This Court further finds that in order to ventilate her grievance as against the private respondent no. 6, the writ petitioner has every opportunity to approach before the alternative forum including the Common Law Forum.
11. In view of such, this Court considers that the relief as sought for by the writ petitioner cannot be granted and accordingly, the instant writ petition being **WPA 6131 of 2021** along with all connected applications, if therebe any, are dismissed.
12. Urgent photostat certified copy of this order, if applied for be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)