

Item No.6

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

16.04.2024
Ct-24

WPA 9432 of 2024

Sabiul Momin & Ors.

v.

The State of West Bengal & Ors.

Mr. Gangadhar Das
Mr. Tanmoy Chattopadhyay
... for the petitioners.

Mr. Sirsanya Bandopadhyay
Mr. Ritesh Ganguly
... for the State.

The order passed by the District Magistrate, Malda on May 24, 2023 has been placed before this Court.

It appears that the District Magistrate has come to a conclusive finding that the first as well as the second panel prepared for selection of additional work force in the VBDC Programme have been rejected as the recruitment procedure was improper.

The matter has been forwarded to the Special Secretary, Government of West Bengal, Panchayats & Rural Development department for perusal and taking appropriate action in terms of the order passed by this Court in FMA 1399 of 2022 with IA No. CAN 1 of 2022 arising out of WPA 21432 of 2022.

Learned advocate for the petitioners submits that no opportunity of hearing was given to the petitioners prior to passing the impugned order.

It appears from the documents annexed to the writ petition that the District Magistrate, Malda went into the details of the matter and perused all documents and arrived at a conclusive finding that proper guidelines were not followed for engagement of the volunteers in respect of the first panel of twenty-five candidates and also the second panel of thirty candidates and accordingly both the panels stood rejected.

From the various order sheets annexed to the writ petition it appears that the learned advocate representing the present petitioners, at one point of time, appeared for a different set of volunteers and also appeared for the Pradhan of the Gram Panchayat. It is apparent that all the parties were in the know of the matter. No separate representation was made from either of the parties seeking opportunity of hearing before the District Magistrate, Malda.

The Court, in order dated September 21, 2022, in WPA 21432 of 2022 in the matter of Baishakhi Mandal & Ors. v. The State of West Bengal & Ors. was completely aware of the fact that third party rights were already created and were working in the Gram Panchayat. The Court, accordingly, directed the Additional Executive Officer, being the Block Development Officer of the Malda Zilla Parishad to hear out the allegations which may be filed by way of written versions and documentary evidences. The Hon'ble Division Bench, instead of Additional Executive Officer, merely directed the District Magistrate to decide the issue.

The District Magistrate after going through all documents passed the reasoned order and forwarded the same to the Special Secretary, Government of West

Bengal, Panchayats & Rural Development Department for taking necessary action. The Court does not find any error in the order impugned.

The Special Secretary shall take steps in the matter in accordance with the direction passed by the Hon'ble Division Bench.

It will be open for the Special Secretary to afford reasonable opportunity of hearing to the petitioners who were allegedly empaneled in the second list and also to the candidates empaneled in the first list as well as the Pradhan of the Gram Panchayat prior to passing a final order in the matter.

The learned advocate representing the petitioners submits that his clients are still performing the work in the Gram Panchayat.

It is made clear that the Panchayat will not be liable to pay any remuneration or honorarium for the service rendered by the petitioners and the petitioners will not claim any equity in their favour on account of the service rendered by them. The service of the petitioners shall be treated as absolutely voluntary in nature.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)