

05.10.2024
(Sl.No.2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via Video Conference)**

WPA/9241/2023

SUNITA KUMARI

-VS-

THE STATE OF WEST BENGAL AND OTHERS

Mr. Sufi Kamal,
Ms. Shireen Hossain ... for the petitioner

Mr.Rejaul Hossain ... for the State

Mr. Sarwar Jahan,
Mr. Sk. Nayeemul Haque ... for the Private respondent

The petitioner challenges the appointment of the respondent No. 8 as an Accredited Social Health Activist (ASHA) Karmee.

Briefly, the petitioner belongs to the Schedule Caste Community and had passed her Secondary Examination in 2016. Thereafter, pursuant to an advertisement dated 8 February 2022 issued by the Sub-Divisional Officer & Member/ Secretary of ASHA Selection Committee, Malda inviting applications from women under several villages within the Chanchal Sub-Division, the petitioner had sought for appointment as an ASHA Karmee. The eligibility criteria for the post of an ASHA worker involves selection on the basis on marks obtained by the candidate in the Madhyamik

Examination (90% weightage) and the score in the interview (10% weightage).

It is contended that the petitioner had obtained the highest percentage in the examination amongst all the candidates who had appeared for the interview. The petitioner obtained 40.20% marks in her academic score whereas the respondent No. 8 had obtained 39.26%. However, the respondent No.8 obtained 7.2 marks out of 10 in the interview whereas the petitioner obtained 4.2 out of 10. As such, the respondent no.8 was appointed for the subject post. The petitioner challenges the above marks and contends that the Tabulation Sheet and the Final Scores are contradictory and inconsistent. As per the original final score sheet, the petitioner had obtained 9 out of 10 whereas the respondent No. 8 had obtained 4.6 out of 10. The mark sheet sent to the Sub Divisional Officer was fabricated and the same did not bear the signatures of the Members of the Selection Committee. In support of such contention, the petitioner relies on the decisions of *Bishnu Biswas and Others vs. Union of India* AIR 2014 SC 1570, and *M Nagraj Vs Union of India* (2006) 8 SCC 629.

On behalf of the respondent no.8 it is contended that, as per the official records the petitioner had obtained 44.67% i.e 268 out of 600 marks and the respondent no.8 had obtained 43.63% i.e. 349 out of

800 marks. Thus, the scores obtained by the petitioner was 40.20 + 4.2 and by the respondent no 8 was 39.26 + 7.2. Consequently, the petitioner was rightfully declared to be in second position. Thereafter, the results were duly signed by the ASHA Selection Committee and forwarded to the Mission Director, National Health Mission, Department of Health and Family Welfare, Government of West Bengal. It was only after receiving the signed approved panel, did the concerned officer, issue the necessary engagement letter to the respondent no 8. A serious allegation of fraud and interpolation of documents relied on by the petitioner and annexed to the writ petition is also alleged by the respondent No. 8 and the respondent authorities.

The crux of the case of the petitioner rests on a communication being annexure P-4 to the writ petition which purports to be an alleged mark sheet pertaining to the above post. The said document does not bear any seal nor signature and has not been authenticated by the respondent authorities. As such, the same is of no evidentiary value and no reliance can be placed on the same. The respondent authorities have also contended that the said document is a manufactured and fabricated document. In such circumstances, the entire case of the petitioner is on the basis of an unauthenticated and questionable document and cannot be the foundation for any relief.

In view of the serious allegations of fraud and interpolation of the mark sheet relied on by the petitioner, the petitioner is not entitled to any order. In view of the above, there is no merit in this writ petition. WPA/9241/2023 stands dismissed. However, there shall be no order as to costs.

(Ravi Krishan Kapur, J.)