

26.02.2024
Item Nos.2 & 3
Court No.550
Saswata

W.P.A. 18316 of 2008
with
CAN 1 of 2023
Lily Jasmin Ara Abedin
-vs-
State of West Bengal & Ors.

Mr. Amitava Chaudhuri
Mr. N.Roy

...For the petitioner

Mr. Jayanta Samanta
Mr. K.S.Alam

...For the State

Mr. Ratul Biswas
Mr. Soumyadip Kanu

...For the respondent nos. 9 and 10

Ms. Pampa Dey Dhabal
Ms. Sangita Banerjee

...For the private respondent no. 11

1. Challenging, inter alia, the order dated 26th March 2008 passed by the District Magistrate, Dakshin Dinajpur the instant writ petition has been filed.
2. It is the petitioner's case that the respondent no. 2 had initiated a project under National Rural Health Mission for providing health services of the State authorities to the grass root level of the society and for the said purpose had offered appointments to additional Auxiliary Nurse and Mid-wife (in short A.N.M.) in every sub-health centres under different development block. An advertisement was published on 6th September 2006 in the daily newspaper Anandabazar Patrika.
3. The petitioner claims to have requisite qualification and had accordingly participated in the said selection process. It is claimed that the respondent no. 11 had obtained a certificate of the Secondary Examination from Rabindra Mukto Vidyalala (later renamed as Rabindra Open Schooling) on the basis of an alleged Class – VIII pass certificate from Belpukur High Madrasa School and on the basis thereof, had participated in the aforesaid selection process of A.N.M.

4. According to the petitioner, the class VIII pass certificate of the respondent no. 11 is fake and it is on the basis of the said fake certificate the respondent no. 11 had managed to obtain the secondary pass certificate from Rabindra Open Schooling. It is under the circumstances as aforesaid the petitioner has filed a writ petition which was registered as WP no. 5078 (W) of 2007. By an order dated 12th September 2007 a Co-ordinate Bench of this Court disposed of the writ petition by issuing following directions to the District Magistrate.

“1. Representation (Annexure ‘P2’) made by the petitioner on 27.1.2007 be disposed of within a period of fortnight from the date of communication of this order upon extension of audience to the petitioner and the respondent no. 14 and come to a reasoned conclusion which is to be communicated to them forthwith.

2. While arriving at his decision, the respondent no. 6 would take into account the materials as available in the annexure to the writ petition as well as to the supplementary affidavit independently without being guided by the disposal of this application.”

5. Pursuant to the aforesaid, the District Magistrate upon giving opportunity of hearing to the parties had passed a reasoned order on 20th March 2008 which forms the subject matter of challenge in the present writ petition.
6. In the interregnum the respondent no. 11 had also filed a writ petition being WPA 20177 of 2023 for implementation of the order passed by the District Magistrate dated 20th March 2008. A co-ordinate Bench of this Court by an order dated 28th November 2023 had disposed of the said writ petition being WPA no. 20177 of 2023 by directing the District Magistrate, Dakshin Dinajpur to take a decision with regard to the prayer of the respondent no. 11, who was the petitioner in the said writ petition for implementation of the order dated 20th March 2008 at the earliest, provided that the said order

is not set aside or cancelled by any Court of competent jurisdiction.

7. Subsequently, in terms of the direction passed by this Court on 21st February 2024 a report in the form of an affidavit has been filed on behalf of the respondent nos. 9 and 10 affirming that on the basis of the verification carried out by them it was found that the results awarded by Rabindra Mukto Vidyalaya (West Bengal State Open School) in respect of the respondent no. 11, Ferdoushi Begum, d/o Abul Kalam Azad is genuine. The particulars of the registration number, year of examination, the marks awarded including the division awarded to her is also disclosed by way of a communication dated 12th February 2024, which forms part of the said report.
8. It is submitted by Mr. Biswas, learned advocate appearing for the respondent nos. 9 and 10 that the respondent no. 11 had participated in the secondary examination (open school exam) whereupon the aforesaid certificate had been issued.
9. I, however, find that the contention of the petitioner is that the Class –VIII pass certificate issued in favour of the respondent no. 11 is fake. Be that as it may, since a co-ordinate Bench of this Court has already directed the District Magistrate, Dakshin Dinajpur to take a decision with regard to the prayer of the respondent no. 11 for implementation of the order dated 20th March 2008, I am of the view that the present writ petition can be disposed of by directing the District Magistrate, Dakshin Dinajpur to take into consideration the aforesaid affidavit affirmed on 21st February 2024 on behalf of the respondent nos. 9 and 10 and the grievance of the petitioner limited to the objection towards the implementation of the order dated 20th March, 2008, and to take a decision on the basis thereof.

10. Having regard to the aforesaid and the disclosure made in the affidavit affirmed on 21st February, 2024, I do not find any reason to interfere with the order dated 20th March, 2008.
11. With the aforesaid observation and direction, the writ petition being WPA 18316 of 2008 is accordingly disposed of.
12. All parties to act on the basis of server copy of this order duly downloaded from this Court's official *website*.

(*Raja Basu Chowdhury, J.*)