

46 02.7.2024
Sc Ct. no.2

WPA 19346 OF 2023

Smt. Pratima Nandi

Vs.

State of West Bengal & Ors.

Mr. Gopal Chandra Ghosh

... For the Petitioner

Mr. Arindam Chattopadhyay

Ms. Lipika Chatterjee.

.... For the Respondent

Nos. 1 to 4

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Gopal Chandra Ghosh, learned counsel appears for the petitioner.

Mr. Arindam Chattopadhyay, learned State counsel appears for the respondent nos. 1 to 4.

None appears for the other respondents, despite notice. The law presumes that, they do not intend to defend this writ petition.

The petitioner is working as **ASHA** karmee since **2010** under the concerned Panchayat. The petitioner complains that, the private respondent no.6 is also another **ASHA** karmee being her colleague appointed in **2015** has been wrongly and incorrectly using the husband's name of the petitioner as her husband. The basis of such allegation is that, the Panchayat Pradhan has purportedly and illegally issued a certificate dated

February 24, 2015 showing the husband's name of the petitioner as the husband of the private respondent, at **page 21** to the writ petition. Learned counsel for the petitioner refers to a communication of the **Block Medical Officer dated April 13, 2015, Annexure-P4 at page 19** to the writ petition and submits that, the said communication also shows wrongly and illegally the name of the petitioner's husband as the husband of the private respondent solely on the basis of the said alleged declaration of the Pradhan dated **February 24, 2015**. Relying upon a copy of the **Voter's List at page 18** to the writ petition learned advocate for the petitioner submits that, the private respondent no.6 is not a married lady. Drawing attention to **Annexure-P6 at page 23** he submits that, the husband's name of the private respondent has also shown as the name of the husband of the petitioner.

In the light of the above, the petitioner prayed for, *inter alia*, the following reliefs in this writ petition :

- "a. To issue a writ or in the nature of mandamus thereby commanding the official respondents to make an enquiry and take steps against the Pradhan Balagarh-I Gram Panchayet as well as private respondent respectively for issuing certificate in favour of the private respondent certifying therein that she is the legally married wife of Sankar Nandi, the husband of the petitioner and cancel the said certificate as well as the appointment of the private respondent failing which to set aside and/or rescind the same;*
- b. A writ of or in the nature of mandamus thereby removing the private respondent from*

her service obtained by practicing fraud upon the Government authority;”

Further, learned counsel for the petitioner submits that, the private respondent is not actually a married lady and not being a resident of the concerned village was not eligible to receive the employment as **ASHA** karmee of the concerned panchayat.

Learned counsel for the petitioner also submits that the main person concerned who is claimed by both the petitioner and the private respondent to be the husband of them has not been impleaded in the writ petition. He submits that, the petitioner has submitted a representation dated **August 25, 2022** at **page 25** to the writ petition, the same has not been considered.

After considering the submissions made on behalf of the parties and after considering the reliefs claimed in the writ petition, this Court is of the firm view that, complicated questions of facts have been raised by citing various factual incidents and evidences, such factual incidents are required to be gone into by way of a detailed fact finding inquiry by adducing evidence by the relevant parties. This is not the job of a Writ Court. The petitioner must seek a proper declaration from the jurisdictional civil court and then if she succeeds and decree is passed in her favour then, the petitioner can pursue her further claims before the State authorities, if any.

In view of the foregoing discussions and reasons this writ petition, according to this Court, is devoid of any merit and involves several triable issues, which cannot be gone into by the Writ Court.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

Accordingly, this writ petition, **WPA 19346 of 2023** stands dismissed, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)