

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**MAT 1628 of 2023
with
IA NO: CAN 1 of 2023**

***Banima Afroj
Vs.
Tarifa Bibi & Ors.***

For the Appellant : Mr. Mr. Shamim Ul Bari, Advocate

For the State : Mr. Arjun Roy Mukherjee,
Mr. Rezaul Hossain, Advocates

For the private : Mr. Rabiul Islam,
respondent Mr. Raju Mondal,
Mr. Masooq Rahman, Advocates

Heard on : June 12, 2024 & August 1, 2024

Judgment on : August 1, 2024

DEBANGSU BASAK, J.

- 1.** Appeal is directed against an order dated July 24, 2023 passed in WPA 28308 of 2022.
- 2.** By consent of the parties, appeal is taken up for final hearing on the basis of the available records.

3. By the impugned order, learned Single Judge set aside the appointment of the appellant herein as Accredited Social Health Activist (ASHA) Karmee. Learned Judge permitted the State respondents to take necessary steps for the purpose of engagement of ASHA Karmee in accordance with law after disposal of the criminal case against one of the employees involved in the selection process.

4. Respondent no. 7 in the writ petition is the appellant herein. Learned advocate appearing for the appellant submits that, appellant participated in a selection process for the appointment of ASHA Karmee as advertised by the vacancy list of ASHA area for engagement of ASHA Karmee vide notice dated January 3, 2022. He draws the attention of the Court to the relevant notifications governing the appointment of ASHA Karmee. He submits that, a geographical boundary is required to be specified in the advertisement from which area one can apply for the appointment as ASHA Karmee for that area. In the facts of the present case, he submits that, the prescription of the geographical boundary is not correct. According to him, while the geographical boundary prescribed must be ascertainable, the authorities proceeded to prescribe a boundary commencing from a particular house of a person and ending at the house of another person. Although the notification prescribed the length of the boundary, the width of the boundary was not prescribed. He contends that the appellant is within the boundary prescribed.

5. Report was called for from the respondent authorities by an order dated June 12, 2024. Respondent authorities submitted a report during the pendency of the appeal. Appellant files an objection to such report which be taken on record.

6. State and private respondent are represented.

7. Learned advocate appearing for the private respondent does not dispute the proposition that, the details of the vacancy area as published does not quantify the boundary of the subject 'village' adequately.

8. We perused the subject notification. Subject notification prescribes a geographical boundary which commences from a house of a specified person and ends with the house of another person. Although, it may be said that the length of the geographical boundary is prescribed but, the notification does not prescribe the width of the geographical boundary. It is also unclear as to whether, the authorities meant a single road commencing from the house of a particular person and ending with the house of the other person by the prescription of the boundary as done in the notification.

9. There is only post to be appointed for the subject 'village'. Appellant was initially appointed. Appointment of the appellant was cancelled by the impugned order, on the complaint made by the private respondent.

10. State is unable to proceed with the appointment on the ground that the learned Single Judge directed appointment only on completion of the criminal proceedings initiated against an official of the State.

11. Keeping the post vacant will be inimical to public interest. ASHA Karmees are appointed to attend to the need of the public. Their appointments are in public interest.

12. In such circumstances, it would be appropriate to set aside the selection process for appointment of ASHA Karmee so far as the subject 'village' is concerned. Authorities are requested to initiate appropriate selection process for appointment of ASHA Karmee in respect of the subject 'village', in accordance with law. It is expected that the selection process is completed as expeditiously as possible and preferably within six weeks from date.

13. No doubt, while prescribing the geographical boundary and the area from which the aspirants will be considered for appointment as ASHA Karmee, the Authorities will take into consideration the guidelines governing such quantification.

14. MAT 1628 of 2023 along with connected application are **disposed of** without any order as to costs.

15. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Debangsu Basak, J.)

16. I agree.

(Md. Shabbar Rashidi, J.)

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