

W.P.A. 28805 of 2016

Subhajit Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Subrata Ghosh
...for the petitioner

Mr. Sadhan Kumar Halder
Mr. Abdus Salam
...for the State

Petitioner, as it has been submitted by the learned advocate, has participated in selection process for appointment of homeopathic doctor in Milki Gram Panchayat, District-Malda based on an advertisement issued vide memo dated 9th June, 2016 which was published in daily vernacular. Pursuant to such advertisement petitioner offered his candidature by application dated 20th June, 2016 disclosing his qualifications being Homeopathic Doctor, DMBS and BMBS. However, petitioner was not selected for being engaged as Homeopathic Doctor in the aforesaid gram panchayat which prompted the petitioner to approach this Court with the present writ petition. According to the petitioner, his qualifications of BMBS and DMBS are equivalent to DHMS and BHMS qualifications. Therefore, according to the petitioner, he should have been selected

for being engaged as homeopathic doctor in the dispensary run by the aforesaid gram panchayat.

During course of submission learned advocate representing the petitioner has drawn attention of this Court to one memo dated 9th September, 2016 issued by the Additional District Magistrate (Genl), Malda addressed to the Additional Executive Officer, Malda Zilla Parishad which is related to the complaint made by the petitioner relating to his engagement as homeopathic doctor in the aforesaid gram panchayat. According to the petitioner, subsequent to the complaint made on 9th September, 2016 no progress was made, as a result whereof his engagement has been held up and there is need to make endeavour to find out whether medical qualifications of the petitioner is equivalent to DHMS and BHMS degree or not.

Mr. Sadhan Kumar Halder, learned advocate representing the State-respondents has relied upon affidavit-in-opposition affirmed by the Deputy Secretary, Malda Zilla Parishad and has drawn attention of this Court to the notification dated 23rd May, 1988 as well as memo dated 9th September, 2016 issued by the Additional District Magistrate, Malda and Additional Executive Officer, Malda Zilla Parishad addressed to the Registrar, Council of Homeopathic Medicine, West Bengal and the response of the Registrar of the Council of

Homeopathic Medicine, West Bengal dated 14th September, 2016.

According to the State-respondents, in terms of the notification dated 23rd May, 1988 a candidate desirous to be engaged as homeopathic doctor in a dispensary run by gram panchayat needs to have a qualification registrable in part 'A' of Register of registered Homeopathic practitioners maintained by the Council of Homeopathic Medicine, West Bengal.

It has further been submitted that since the petitioner was not possessing the said qualification at the material point of time, steps could not be taken to engage the petitioner. In this regard it is also submitted that the Registrar, Council of Homeopathic Medicine, West Bengal also reported to the Additional District Magistrate, Malda vide letter dated 14th September, 2016 that the qualifications of the petitioner i.e. BMBS and DMBS and the registration number provided by the petitioner are not connected to the Council of Homeopathic Medicine, West Bengal.

Having considered the submissions made on behalf of the parties and on perusal of the documents available on record, this Court is required to find out whether the petitioner was having requisite qualification for being engaged as homeopathic doctor in dispensary run by gram panchayat or not. In the application made by the

petitioner for being engaged as homeopathic doctor, his medical qualification has been disclosed and it appears that petitioner was having medical qualifications of DMBS and BMBS. Since such medical qualifications are not in consonance with the qualification as prescribed in the notification dated 23rd May, 1988 issued by the Secretary, Department of Health and Family Welfare the Additional District Magistrate and Additional Executive Officer, Malda Zilla Parishad sent communication vide memo dated 9th September, 2016 to the Registrar, Council of Homeopathic Medicine, West Bengal in order to verify qualification of the petitioner and in response thereto, the Registrar, Council of Homeopathic Medicine, West Bengal vide letter dated 14th September, 2016 informed the concerned respondent authorities that the qualification of the petitioner i.e. BMBS and DMBS and the registration number are not connected to the Council of Homeopathic Medicine, West Bengal. The communication of the Registrar dated 14th September, 2016 is annexed to the affidavit-in-opposition at page 16.

While considering the eligibility of the petitioner to be engaged as homeopathic doctor, the response made by the Registrar, Council of Homeopathic Medicine, West Bengal dated 14th September, 2016 cannot be ignored.

In addition thereto, when the notification dated 23rd May, 1988 provided that the candidate must possess

qualification registrable in part 'A' of the Register of registered Homeopathic Practitioners as maintained by the Council of Homeopathic Medicine, West Bengal and subsequently Registrar, Council of Homeopathic Medicine, West Bengal reported that the qualification of the petitioner does not make him entitled to be registered in the register maintained by the Homeopathic Council; the qualification of the petitioner ought not to be treated as requisite qualification as contemplated under the notification dated 23rd May, 1988.

Accordingly, the writ petition stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)