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31.01.2024
d.p.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A 164 of 2024

**Sabana Bibi
-versus
The Commissioner of Family Welfare
& State Mission Director Ors.**

**Mr. Deborshi Dhar.
...For the Petitioner.**

**Mr. Nabankur Paul,
Mr. Kumar Shantanu.
...For the State.**

The order dated 14th July, 2023 passed by the Member Secretary, ASHA Selection Committee, Dinhata allegedly in compliance of the direction passed by this Court in WPA 1061 of 2023 is impugned in the present writ petition.

Specific case of the petitioner is that the private respondent is ineligible to be appointed as 'ASHA' as she is not a resident of the village where engagement will be made.

The Member Secretary of the Selection Committee considered the objection filed by the petitioner against the engagement of the private respondent but disposed of the objection of the petitioner by holding that the petitioner was under aged and, accordingly, could not fulfill the age criteria for engagement.

The petitioner submits that the respondent authority failed to consider the ineligibility of the private respondent.

The private respondent is not represented in Court.

On a perusal of the impugned order, it appears that consideration was made with regard to the eligibility of the petitioner. As the petitioner was found ineligible, accordingly, her application stood rejected. The respondent authority at the time of consideration of the objection of the petitioner ought to have considered the ineligibility of the private respondent also.

As the petitioner has a specific complaint that the private respondent is not a resident of the subject Gram Panchayat, accordingly, the same is required to be ascertained.

Ineligibility of the petitioner ought not to stand in the way of the respondent authority to adjudicate the ineligibility ground raised by the petitioner in respect of the private respondent. If the private respondent is found not to be a resident of the subject Village/Gram Panchayat, then the private respondent's engagement is liable to be terminated.

The respondent authority ought to consider the issue upon giving a reasonable opportunity of hearing to the private respondent prior to taking any decision in the matter.

The respondent no. 4 being the Sub-Divisional Officer-cum-Member Secretary of ASHA Selection Committee, Dinhata is directed to revisit the issue and

consider as to whether the private respondent is eligible for engagement as Asha Karmi in terms of the notification dated 11th October, 2022 after giving reasonable opportunity of hearing to the private respondent.

A decision shall be taken in the matter at the earliest but positively within a period of four weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)