

28.01.2025

Item no.DL/4
Court No. 23

Asraf, A.R.(Ct.)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 27 of 2024

**MITHURANI MONDAL
VS.
THE STATE OF WEST BENGAL & ORS.**

**Mr. Robiul Islam
Mr. Sk. Jayed Hossain**
....for the Writ Petitioner

**Mr. Asim Kr. Ganguly, AGP
Mr. Sk. Md. Masud**
....for the State

**Mr. Arif Ali
Mr. S. Bhattacharjee**
....for the Respondent no.5

Before the parties commenced their argument, the learned advocate for the State submitted that the report in the form of an affidavit was affirmed by the State respondents on 6th September, 2024 and was served on 9th September, 2024. On the basis of such report, the petitioner has also taken an exception which is affirmed on 16th January, 2025. There was as such no laches on the part of the advocate representing the State in serving the report in the form of affidavit. The instructions on the basis whereof submissions have been made by the learned advocate for the petitioner

on 9th January, 2025 when the matter was taken up last and the recording in pursuance thereof are erroneous. The recording as to non-supply of the report in the form of affidavit by the learned advocate for the State is, therefore, expunged from the order dated 9th January, 2025.

The main grievance of the petitioner is that she participated in a selection process for engagement of Accredited Social Health Activist (in short, "ASHA") *Karmee* to be engaged for Jagadishpur sub-centre under Kaluha Gram Panchayat, PS – Margram, District – Birbhum in terms of an advertisement dated 20th December, 2022. The petitioner says that as per the merit list published by the selection committee the petitioner has been placed in serial no.2 and is, therefore, entitled to be engaged in the event the first ranked candidate is either found ineligible for having not fulfilled the requisite criteria under the said advertisement. The petitioner further says that the first rank candidate / respondent no.5 who has been given the engagement is not a resident of Jagadishpur and, as such, could not have been selected for the Kaluha sub-centre against Kaluha Gram Panchayat. The petitioner also says that due weightage of the petitioner's

experience as a linked worker was not given as per the existing guideline for which her aggregate marks is lower than that of respondent no.5. The petitioner, therefore, says that the engagement of respondent no.5 should be cancelled and the petitioner should be engaged in the place and stead of respondent no.5.

On behalf of State it is submitted by referring to the relevant documents that the respondent no.5 is a resident of Jagadishpur and, as such, she qualifies for being considered against Kaluha sub-centre under Kaluha Gram Panchayat. This has been also done in compliance with the existing guideline and, as such, the petitioner cannot have any grievance. The State respondents further submit that admittedly the respondent no.5 had secured higher marks in the academic section as also in the interview and, as such, was placed in the first position and had been given the engagement. There is no scope of revisiting the issue any further.

Although the petitioner says that the respondent no.5 after marriage is residing at her matrimonial abode not at Jagadishpur but the fact remains that she was a resident of Jagadishpur assuming without

admitting the said contention and has produced supporting documents to demonstrate the same. Even after marriage there is no embargo on the respondent no.5 to choose to stay at her parental house. The marks obtained by the petitioner and the respondent no.5 have been also produced before the Court as part of the report in the form of affidavit filed by the State respondents. It also appears that the weightage of the experience certificate as a linked worker as also that of Grade-II self-employee has been given to the petitioner which fact is, however, disputed by the petitioner.

Going by the facts of the case and that the respondent no.5 had her permanent residence at Jagadishpur assuming without admitting that she has been staying elsewhere after her marriage does not make the engagement of the said respondent no.5 invalid or bad in law.

The grievance of the petitioner, therefore, is unmeritorious.

The writ petition is **dismissed** holding that the engagement of the respondent no.5 cannot be declared invalid on the grounds alleged by the petitioner.

The parties are directed to act upon the server copy of this order duly downloaded from the official website of this High Court without insisting upon production of a certified copy thereof.

(Arindam Mukherjee, J.)