

13.05.2025
Sl. No. 46.
D/L.
Mithun
Ct.No.39.

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

WPA 710 of 2024

**Dipak Kumar Pahari & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Goutam Banerjee,
Mr. Raja Ghosh

...for the petitioner

Mr. Santimay Bhattacharyya,
Mr. Ziaul Haque

...for respondent nos.4 and 6.

Mr. Tapas Kumar Roy,
Mr. Rohan Shaw

...for respondent no.13.

Mr. Lalit Mohan Mahata, Ld. A.G.P.,
Mr. Rudranil De

...for the State

Affidavit-of-service filed on behalf of the petitioner
is taken on record.

This writ petition is filed seeking direction upon
the respondent authorities to give appointment to the
petitioners as per the interview held pertaining to the
notification dated 7th August, 2009 of Paschim
Medinipur Zilla Parishad and panel dated 7th May, 2010
prepared by the authority (Annexure-P/6) to the writ
petition.

The petitioners contend that on 7th August, 2009
Paschim Medinipur Zilla Parishad issued a letter to all
Panchayat Samitees and Gram Panchayats to display
notice for recruitment of Homoeopathy Doctors in

respective Panchayats having qualification of BHMS and DMS. The petitioners applied before the authority and on the basis of the applications, they were directed to appear for an interview process and the petitioners were selected. Since no appointment was given to the petitioners, they filed a writ petition being W.P. No. 5519 of 2011. The said writ petition was withdrawn as the authority could not appoint the petitioner due to pendency of the writ petition. Subsequently, one Sajal Kumar Ghosh (petitioner no.6) filed a writ petition being WP No.1303 of 2018. By an order dated 20th February, 2019, the writ petition was disposed of with the following directions:-

“Under such circumstances, this writ petition is disposed of directing the respondent no.2, i.e. the Secretary to the Government of West Bengal, Panchayat and Rural Development Department to consider and dispose of the representation of the petitioner made through his learned Advocate dated December 19, 2017 within a period of six weeks from the date of communication of this order. The authority concerned shall pass a reasoned order which should be communicated to the petitioner. The respondent no.2 will consult the other departments including the Pradhan, Golar Gram Panchayat in order to arrive at a decision.”

Pursuant thereto, the Additional Chief Secretary to the Government of West Bengal, Panchayat and Rural Development Department has passed order showing that the engagement of Dr. Sajal Kumar Ghosh was not done in accordance with the norms and, therefore, regularization of his service at Golar Gram Panchayat as Homoeopathy Medical Officer under Keshpur Block, Paschim Medinipur District is not tenable at all and it was dismissed. Hence, this writ petition is filed by the

petitioners including Dr. Sajal Kumar Ghosh (petitioner no.6).

Mr. Goutam Banerjee, learned Advocate for the petitioners submit that the petitioners are discharging their function as Homoeopathy Medical Practitioner in different Panchayats under Paschim Medinipur Zilla Parishad for the last 15 years. They are still continuing to discharge such function at a nominal remuneration. However, they have not been regularized as yet. He seeks for appropriate direction upon the respondent authorities to consider the case of the petitioners for regularization of their engagement in the different Panchayats.

On the contrary, Mr. Lalit Mohan Mahata, learned Additional Government Pleader appearing on behalf of the State submits that prior to engagement of the petitioners as Homoeopathy Medical Practitioner, no formal approval either from the Health and Family Welfare Department or Panchayats and Rural Development Department was taken and, therefore, the question of regularizing the appointment of the petitioners as Homoeopathy Medical Practitioners at different Gram Panchayats under Paschim Medinipur Zilla Parishad cannot arise at all.

Learned Advocate representing the Paschim Medinipur Zilla Parishad also submits in the similar fashion and he files a report of Deputy Secretary,

Paschim Medinipur Zilla Parishad dated 5th February, 2024, which is taken on record.

The prayer for regularization of Dr. Sajal Kumar Ghosh, petitioner no.6, was turned down by the Panchayat and Rural Development Department observing as follows:-

“It is found that the concerned Pradhan engaged the petitioner at Golar Gram Panchayat without taking any formal approval either from the Health & Family Welfare Department or Panchayats & Rural Development Department. As per guideline, all medical personnel can be recruited only after taking the formal approval from this office. Moreover, this office had clearly expressed its view in this regard Vide Memo no. 638-RD/PH&S/2M-3/08 Dated 31.01.2011 that if any dispensary has been opened by any of the Three tier Panchayati Raj Institution violating the guidelines or any doctor has been engaged without taking the prior approval of Panchayats & Rural Development Department, the liability of those dispensaries will not be borne by this Department.”

The report submitted by the Paschim Medinipur Zilla Parishad also indicates that the engagement of the petitioners were not made upon formal approval for such engagement either from the Health & Family Welfare Department or Panchayats & Rural Development Department. Thus, the order impugned of the Panchayats & Rural Development Department dismissing the prayer of petitioner no.6 does not call for interference. There are also no formal approval from respective departments as regards engagement of petitioner nos. 1 to 5 and 7 & 8.

In light of the above, the prayer for appointment of the petitioner nos. 1 to 5 and 7 & 8 and their regularizations are also turned down.

The writ petition being **WPA 710 of 2024** stands dismissed.

All connected applications, if any, stand disposed of.

There will be, however, no order as to costs.

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Bivas Pattanayak, J.)