

**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 392 of 2024
IA NO: CAN/1/2024
CAN/2/2024
Tarajina Bibi**

vs.

The State of West Bengal & Ors.

with

**MAT 393 of 2024
IA NO: CAN/1/2024
CAN/2/2024
Tarajina Bibi**

vs.

The State of West Bengal & Ors.

For the Appellant	:	Mr. Chitta Ranjan Chakraborty, Advocate Mr. Abdur Rahaman, Advocate Mr. Sumit Banerjee, Advocate
For the State in MAT/392/2024	:	Ms. Jhuma Chakraborty, Sr. Govt. Advocate Mr. Suddhadev Adak, Advocate
For the State in MAT/393/2024	:	Ms. Jhuma Chakraborty, Sr. Govt. Advocate Ms. Rupsha Chakraborty, Advocate
For the Private Respondent	:	Md. Sarwar Jahan, Advocate Md. Ashraful Huq, Advocate Mr. Kaustav Roy, Advocate
Heard on	:	06.03.2025
Judgment on	:	06.03.2025

DEBANGSU BASAK, J.:-

1. In both the appeals CAN/1/2024 is an application for condonation of delay which was allowed by order dated January 14, 2025. Inadvertently, it has been transcribed as CAN 2 of 2024 instead and place of CAN/1/2024. The same shall be corrected and read as CAN/1/2024.
2. Department will incorporate necessary corrections in the order dated January 14, 2025 in both the appeals.
3. Appeals are directed against an order dated December 13, 2023 passed in WPA 6940 of 2018 and WPA 8238 of 2019.
4. Appeals are at the behest of one of the writ petitioners before the learned Single Judge namely, Tarajina Bibi, the writ petitioner in WPA 6940 of 2018.
5. Both the writ petitioners namely, Tarajina Bibi as well as Monira Bibi participated in the selection process for the post of ASHA.
6. Contention of Monira Bibi in her writ petition was that, despite appointment letter issued to her, she was not allowed to join. Learned Single Judge allowed the writ petition of Monira Bibi and directed the authorities to allow her to join. As on date Monira Bibi is working after joining in terms of the order of the learned Single Judge. Monira Bibi is not the appellant before us.
7. Tarajina Bibi as the appellant before us, claims that, Monira Bibi could not be granted appointment since the resident of Monira Bibi is Charlabangola, which is outside the geographical area reserved for the post.

8. We called for reports from the State as to the allegations of Tarajina Bibi. In fact, learned Single Judge called for report from the State prior to disposal of the two writ petitions.
9. The selection process initiated were for a number of posts for a number of centres for ASHA appointments. The relevant centre in this appeal is Charlabangola. For Charlabangola centre, three posts were advertised to be filled up.
10. Monira Bibi is a resident of Charlabangola. So also is Tarajina Bibi. There are apparently three sub areas which are described to be within Charlabangola. A resident of any of these three sub areas within Charlabangola qualifies to be a participant of Charlabangola centre. Consequently, appointment of Monira Bibi cannot be faulted. Tarajina Bibi apparently, is not a better candidate than Monira Bibi so far as Charlabangola is concerned.
11. In the selection process, marks obtained by a candidate at the Class-X pass examination is to be considered amongst others. Admittedly, Monira Bibi passed Class-X examination securing better marks than Tarajina Bibi while Tarajina Bibi failed Class-X and obviously failed to secure better marks than Monira Bibi.
12. **(2008) 3 Supreme Court Cases 512 (K. Manjusree versus State of Andhra Pradesh and Another), (2019) 6 Supreme Court Cases 362 (Maharashtra Public Service Commission Through Its Secretary versus Sandeep Shriram Warade And Others)** are cited on behalf of Tarajina Bibi to contend

that, there is a deviation from the advertised selection process which is impermissible.

13. Reliance in this regard is placed on initial appointment letter which said that the candidature of the candidates were evaluated on revised guidelines. According to Tarajina Bibi revised guidelines cannot be implemented for the purpose of evaluating the candidature of the candidates participating in the selection process.
14. Both the authorities cited on behalf of Tarajina Bibi namely, **K. Manjusree (supra)** and **Sandeep Shriram Warade (supra)** is initiated, rules of the same cannot be changed. In the facts of the present case, nothing is placed on record to suggest that there was any deviation from the declared selection process. The declared selection requires the candidates to be considered on the basis of marks obtained in Class-X examination and the marks obtained at the interview. Candidature of each of the candidates appearing including Tarajina Bibi was considered on the basis of the respective marks obtained in the Class-X examination and the marks obtained in the interview. Tarajina Bibi did not succeed with Monira Bibi who was given the appointment
15. In such circumstances, we find that, the authorities did not deviate from the declared selection process.
16. Learned Single Judge took into account these aspects of the matter and found that, no relief can be granted to Tarajina Bibi. We are of the same view.

17. In such circumstances, **MAT 392 of 2024** and **MAT 393 of 2024** along with connected applications are dismissed.

(Debangsu Basak, J.)

18. I agree.

(Md. Shabbar Rashidi, J.)