

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

P r e s e n t :

The Hon'ble Justice Tapabrata Chakraborty
And
The Hon'ble Justice Partha Sarathi Chatterjee

FMA No. 1311 of 2021

**Smt. Dipali Jana (Giri)
- Appellant**

Vs.

**The State of West Bengal & Others
- Respondents**

For the Appellant :	Mr. Rudranil De, Mr. Ziaul Haque.
For the State/Respondents :	Mr. Swapan Kr. Datta, Mr. Tapas Kr. Dey.
For the Respondent no.2 :	Mr. Md.Sarwar Jahan, Ms. Mousumi Mitra, Ms. Tapati Sarkar. Ms. Shalini Sen.
For the Respondent No.12 :	Mr. Bibekananda Tripathi.

Heard on: 28th November, 2025.

Judgment on : **28th November, 2025.**

Partha Sarathi Chatterjee, J.:

1. The present appeal has been preferred to assail the order dated 16th November, 2018 passed in WP No.9662(W) of 2013, whereby the writ petition was dismissed.
2. The dispute leading to the institution of the present appeal has its origin in a selection process initiated to fill up the post of Sahayika in Uttar Kalicharanpur Nimai Chand Sishu Siksha Kendra (hereinafter referred to as the SSK) vide advertisement dated 16th November, 2009. The advertisement instructed the intending candidates to submit their applications within 23rd November, 2009. In addition thereto, the intending applicants were also directed to remain present in the office of the SSK on the said date with their original credentials
3. On 23rd November, 2009, the managing committee of the SSK passed a resolution noting that it had received applications from several intending and eligible candidates, and the details of those candidates were recorded. Thereafter, on 30th November, 2009, after considering the applications and assessing the suitability of the candidates, the managing committee selected the present appellant for the post of Sahayika.
4. However, since the managing committee did not act on its resolution and did not issue the appointment letter to the appellant, she submitted a representation requesting that she be appointed to the post of Sahayika.
5. Subsequently, on 13th March, 2010, the managing committee passed another resolution, and on the basis of that resolution, it appointed the

private respondent no. 12, Smt. Sucharita Maity (hereinafter referred to as 'Sucharita').

6. Challenging the legality of Sucharita's appointment and seeking her own appointment to the post of Sahayika, the appellant filed a writ petition, being WP No. 9549(W) of 2010, which was disposed of by an order dated 10th May, 2011, directing the Block Development Officer (for short, BDO) to take a decision regarding the validity of Sucharita's appointment.
7. Pursuant thereto, an order was passed by the BDO on 1st February, 2012. In that order, the BDO found that the appointment of Sucharita had been vitiated by undue influence and that the managing committee had not acted in accordance with law while appointing her. The order also noted that there was a tussle between two warring factions of the managing committee, one supporting the appellant and the other supporting Sucharita. Ultimately, the BDO directed the managing committee to terminate Sucharita's appointment, stop payment of honorarium to her, and remove her name from the scroll of honorarium.
8. However, even after this, no appointment was given to the appellant. This prompted her to file another writ petition, being WP 7208(W) of 2012, which was disposed of by an order dated 18th July, 2012. By that order, the Court directed the managing committee to take a decision on the basis of the applications received pursuant to the notice or

advertisement published on 16th November, 2009, within the time stipulated in the order dated 18th July, 2012.

9. Be noted it here that during the hearing of WP 7208(W) of 2012, the managing committee stated that it wished to invite fresh applications by issuing a new advertisement. However, this request was rejected, and the committee was directed to take a decision on the basis of the applications it had already received pursuant to the advertisement dated 16th November, 2009.
10. Records reveal that subsequently, alleging wilful violation of the order dated 18th July, 2012, a contempt application, being CPAN 1870 of 2012, was also preferred. However, the Court observed that no violation was found and that initiation of the contempt proceeding was premature; however, liberty was reserved to the petitioner to take appropriate steps in the event she was aggrieved by the decision to be taken by the managing committee.
11. Thereafter, the managing committee took a decision on the selection process and ultimately chose Sucharita for the post of Sahayika. The appellant once again challenged Sucharita's selection by filing another writ petition, being W.P. No. 9662(W) of 2013. The order passed in that writ petition on 16th November, 2018 has been impugned in the present appeal.
12. Mr. Dey, learned advocate for the appellant, submits that although the BDO had initially found Sucharita's appointment to be vitiated by undue influence, the managing committee nonetheless appointed her.

According to Mr. Dey, Sucharita's appointment and/or selection cannot be sustained in law. He further submits that Sucharita did not submit her application before the last date fixed for that purpose, namely, 23rd November, 2009, and therefore her participation in the selection process itself cannot be regarded as valid.

13. Mr. Tripathi, learned advocate representing Sucharita, vehemently opposes such contention. He submits that Sucharita submitted her application within the cutoff date.
14. Mr. Jahan, learned advocate appearing for respondent no. 2/Mission Director, Paschim Banga Rajya Sishu Siksha Mission, does not support Mr. Dey's contention that no application had been submitted by Sucharita by the last date, i.e., 23rd November, 2009.
15. Mr. Datta, learned Government Pleader for the State, submits that the appellant had participated in the selection process and, having been unsuccessful, has now challenged it, which according to him is impermissible.
16. Heard the learned advocates appearing for the respective parties. Perused the materials on record.
17. The resolution adopted by the managing committee on 23rd November, 2009 indicates that, prior to that date, the committee had already received applications from several candidates for the post. This shows that some applicants, apart from the present appellant, had submitted their applications before the last date fixed for that purpose, namely 23rd November, 2009.

18. On 30th November, 2009, the managing committee adopted a resolution, which showed that on that date the committee considered the candidatures of both the appellant and Sucharita. Therefore, the appellant's claim that Sucharita did not submit her application before 23rd November, 2009 cannot be accepted. This point, raised by the appellant during the hearing of the present appeal, was never urged before the learned single Bench.

19. As already noted, by the order dated 18th July, 2012 passed in WP 7208(W) of 2012, the managing committee was directed to take a decision on the basis of the applications received pursuant to the advertisement published on 16th November, 2009. The appellant did not assail the order dated 18th July, 2012, and as such, the same attained finality between the parties. Furthermore, the appellant participated in the selection process undertaken in compliance with that order without raising any objection. However, after being unsuccessful, she has now challenged the selection process, which is impermissible.

20. For the reasons discussed above, we do not find any merit in the submission advanced on behalf of the appellant, nor do we find any justification to interfere in the present appeal.

21. In view thereof, the appeal along with the connected application(s), if any, is, thus, dismissed.

22. There shall, however, be no order as to costs.

23. Photostat certified copy of this judgment, if applied for, be given to the learned Advocates for the parties upon compliance of all necessary formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)