

S/L 17
18.02.2025
Court. No. 551
Sourav

WPA 9683 of 2011

Ratna Biswakarma (Joardar)
Vs.
The State of West Bengal & Ors.

Mr. Kartick Kr. Bhattacharya
Ms. Papiya Naskar

...for the petitioner.

1. Perused the report dated 07.02.2025 as submitted by the Assistant Registrar – VIII, wherefrom it reveals that copy of the order dated 14.01.2025 as passed by this Court was duly served in the office of learned Legal Remembrancer.
2. Despite such service, none appears on behalf of the respondent/State. The private respondent no. 14 is also not represented today though on the last occasion, i.e., on 14.01.2025, the respondent no. 14 was represented by her learned advocate Mr. Amitava Bhattacharyya.
3. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ for quashing of the order dated 03.06.2021 as passed by the District Magistrate, Uttar Dinajpur pursuant to an order dated 25.06.2007 passed by a co-ordinate Bench in WP 2597 (W) of 2007.
4. By the said order dated 03.06.2011, the District Magistrate, Uttar Dinajpur came to a finding that the private respondent no. 14, Smt. Soma Ghosh (Biswas) was a permanent resident of the relevant area at the

relevant point of time. The said District Magistrate also came to a finding that the said private respondent no. 14, Smt. Ghosh (Biswas) holds requisite documents during submission of the application before the authority to substantiate that she was a resident in the area of the Nasaratpur Katabari Health Sub-Centre.

5. The District Magistrate thus upheld the decision of the Selection Committee while selecting the private respondent no. 14 as 'Auxiliary Nurse & Midwife' in the aforesaid health Sub-Centre.
6. In course of his submission, Mr. Bhattacharya at the very outset draws attention of this Court to Page No. 43 of the instant writ petition being a copy of an advertisement for appointment of '2402 Auxiliary Nurses & Midwife' (hereinafter referred to as 'ANM' for short) in different health sub-centres block wise in the districts of West Bengal. It is submitted by Mr. Bhattacharya that in the District of Uttar Dinajpur, there were many vacancies for the post of said ANM particulars of which have been mentioned in the said advertisement. It is further submitted by Mr. Bhattacharya that from the said advertisement it would reveal that the minimum qualification for appointment for the said post of ANM is Matric/Madhyamik/Equivalent and that the candidate must be permanent resident of the area where the health Sub-Centre is situated and the candidate wishes

to be considered for appointment along with other requisite formalities.

7. In course of his submission, Mr. Bhattacharya while drawing attention to Page No. 68 of the instant writ petition, submits that under cover of a memo dated 16.12.2010 the Sub-Divisional Controller, Food & Supplies, District – Malda confirmed that the private respondent no. 14's ration card was lying at the district Malda and the same was attached with the family members of her paternal home. Drawing attention to Page No. 69 of the instant writ petition being a copy of the memo dated 05.01.2011, it is submitted by Mr. Bhattacharya that from the said memo as issued by the District Controller, F & S, Uttar Dinajpur, Raiganj, it would reveal that surrender certificate in respect of ration card in the name of private respondent no. 14 was issued on 02.02.2007.
8. It is, thus, submitted by Mr. Bhattacharya that by no stretch of imagination, it can be said that on the last day of submission of the application i.e., on 20.10.2006 pursuant to the said advertisement the private respondent no. 14 holds a valid ration card at the relevant area where Nasaratpur Katabari Health Sub-Centre is situated. It is thus submitted by Mr. Bhattacharya that the finding of the District Magistrate, Uttar Dinajpur that as on last day of submission of application i.e., on 20.10.2006 the private respondent no. 14 was a permanent resident of

the relevant area is faulty and is thus required to be set aside by issuing an appropriate writ.

9. For effective adjudication of the instant *lis*, the relevant portion of the advertisement as has been annexed with the instant writ petition at Page No. 43 is required to be looked into and the same is required to be quoted below in verbatim:

“Qun: Matric/Madhyamik/equiv.

Must be permanent resident of the area where the Health Sub Centre is situated and the candidate wishes to be considered for appointment. Applicant must be able to read, write & speak in Bengali or Nepali (For Darjeeling hill area only).”

10. On perusal of the relevant portion of the aforementioned advertisement, it thus reveals that one of the qualifications for getting appointment for the post of ANM is that the prospective candidate must be a resident of the relevant area where he/she wishes to be considered for appointment. At this juncture, if I once again look to Page No. 69 of the instant writ petition being a copy of the memo dated 05.01.2011, it reveals from the said memo that admittedly, the ration card of the private respondent no. 14 was surrendered before the S.C.F&S, Malda on 02.02.2007.
11. On careful scrutiny of the order as passed by the District Magistrate, Uttar Dinajpur on 03.06.2011 it reveals that the said District Magistrate, in course of his enquiry came to a specific finding on the basis of the said memo dated 05.01.2011 that the private

respondent no. 14 got married with her husband at the District – Uttar Dinajpur much prior to the last date of her application dated 17.10.2006 for the purpose of selection as ANM in Nasaratpur Katabari Health Sub-Centre. It reveals further that the said District Magistrate also came to a finding that on the basis of such marriage, the private respondent no. 14 became a member of the family of her husband and her ration card was merged with the family of her husband at District – Uttar Dinajpur. The said District Magistrate further came to a finding that subsequent surrender of the ration card by the private respondent no. 14 at Malda i.e. on 02.02.2007 had got no adverse effect over the ration card issued in the name of the private respondent no. 14 in District – Uttar Dinajpur for the purpose of considering as to whether the private respondent no. 14 is a resident of the area or not.

12. At this juncture, if I once again look to the quoted portion of the aforementioned advertisement, it reveals that in the said advertisement it has been written that the candidate must be permanent resident of the area where he/she wishes to be considered for appointment.
13. Admittedly, on the basis of the memo dated 05.01.2011, the District Magistrate noticed some irregularity with regard to issuance of ration card at the matrimonial place of the private respondent no. 14 and surrendering of ration card at her paternal home

district but the said District Magistrate came to a finding that such factum cannot have any adverse effect in view of the fact, before him materials have been placed that the private respondent no. 14 was married to one Sri Pankaj Biswas in the year 2005 and prior to the last date of application i.e., on 17.10.2006 she became a family member of her husband's family who is/are permanent resident/residents of the relevant area in District Uttar Dinajpur.

14. On careful consideration of the memo dated 05.01.2011 and the order under challenge dated 03.06.2011 as passed by the District Magistrate, this Court has also noticed some irregularities with regard to the issuance of new ration card and surrender of old ration card in the name of the private respondent no. 14 but this Court is in agreement with the District Magistrate, Uttar Dinajpur that such irregularity cannot have any adversarial effect to come to a finding that at the relevant time the private respondent no. 14 was not a resident of the relevant area in District – Uttar Dinajpur. It further appears to this Court that the District Magistrate while passing the said order dated 03.06.2011 came to a specific finding with regard to the marriage of the private respondent no. 14 with one Sri Pankaj Biswas of Subhasganj in the year 2005 and thus came to a factual finding that on account of such marriage, the private respondent no. 14 became permanent resident of her matrimonial

home which falls in the territorial jurisdiction of the relevant area.

15. This Court sitting in writ jurisdiction, is not expected to interfere with such factual finding in absence of any perversity. It further appears from the order of the District Magistrate that principle of natural justice has also been followed.
16. This Court thus finds no merit in the instant writ petition.
17. Accordingly, the instant writ petition being **WPA 9683 of 2011** is dismissed.
18. Before parting with, department is directed to forward a copy of this order to the Chamber of the learned Legal Remembrancer only for the purpose of reminding the learned Legal Remembrancer that in spite of issuance of repeated reminder no steps have been taken by the office of learned Legal Remembrancer, Government of West Bengal for ensuring the appearance of the learned advocate for the State not only in this case but also in several other cases.
19. Department is further directed to forward a copy of this order directly to the Chamber of the learned Legal Remembrancer, Writers' Building, 1st Floor, 700 001 and not to any other office of the said Legal Remembrancer.

20. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)