

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

WPA 11509 of 2009

Meria Khatun Bibi

Versus

The State of West Bengal and Others

For the Petitioner : Mr. Lalratan Mondal, Adv.

Heard on : 27.08.2025

Judgment on : 27.08.2025

Ajay Kumar Gupta, J:

1. The petitioner approached this Court by filing instant writ petition seeking direction upon the respondent no. 2 to recast the panel list prepared by Shibnagar Primary School, Murshidabad for the post of Additional Para Teacher of the aforesaid school after cancelling the appointment of respondent no. 5 and also the order

dated February 11, 2009 passed by the respondent no. 2 communicated by Memo No.114/4/SSM/Para/09 dated June 22, 2009.

2. It is submitted by the learned counsel for the petitioner that the respondent no. 5, Munjila Khatun, wife of Ainal Haque was appointed as an Additional Para Teacher though she was not the resident of the area, where concerned school is situated. The notification dated 28.12.2007 issued to engage Additional Para Teacher in Shib Nagar Primary School is specifically indicated that the candidate must be the resident of the area where the school is situated. Therefore, she is not entitled to get such appointment.

3. The petitioner has made representation before the respondent no. 2 alleging such facts that she is not the resident area as claimed. The representation has not been considered. Therefore, he came before this Court with aforesaid prayer.

4. None appears on behalf of the respondents.

5. Having heard the arguments of the learned counsel representing the petitioner and on perusal of the materials available in the records, this Court finds that the District Project Officer, SSM, Murshidabad vide order dated February 11, 2009, came to a conclusion that she was the resident of Kapasdanga-XV VEC (Newly

Kapasdanga-XI VES) where Shibnagar Primary School is situated so she is genuine applicant for the post of Additional Para Teacher at Shibnagar Primary School. While passing aforesaid order, the concerned authority considered that the Respondent No.5 got married on 12.10.2007 in the said area i.e. at Kapasdanga-XI VEC, Village-Shibnagar under Kapasdanga Gram Panchayat prior to the issuance of the notification.

6. Furthermore, the certificate issued by Pradhan, the Block Development Officer, Murshidabad- Jiaganj Development Block and Marriage Registration Certificate was also considered after affording opportunity to the parties including the petitioner herein. Therefore, the contention of the petitioner is not acceptable and tenable in law and, in such case, prayer, sought for, cannot be allowed.

7. In addition, Writ Court cannot sit in appeal against the order of respondent no. 2 and to deal with disputed question of facts of her marriage and place of residence. It is only to be considered perversity, illegality or violation of principal of justice.

8. With regard to the aforesaid contention, the Hon'ble Supreme Court in ***Sanjay Kumar Jha v. Prakash Chandra***

Chaudhary and Others¹, held in paragraph nos. 13 and 16 as under:-

“13. It is well settled that in proceedings under Article 226 of the Constitution of India, the High Court cannot sit as a court of appeal over the findings recorded by a competent administrative authority, nor reappreciate evidence for itself to correct the error of fact, that does not go to the root of jurisdiction. The High Court does not ordinarily interfere with the findings of fact based on evidence and substitute its own findings, which the High Court has done in this case. Even assuming that there had been any error in the computation of marks in respect of fixed and movable assets, the High Court could, at best, have remitted the case of respondent Prakash Chandra Chaudhary to the authorities concerned for reconsideration.

16. In exercise of discretionary power of judicial review under Article 226 of the Constitution, the High Court might interfere with administrative matters only if the decision is violative of fundamental or basic principles of justice and fair play or suffers from any patent or flagrant error. It is true that the High Court might rectify, in exercise of its power of judicial review, an error of law or even an error of fact, for sufficient reasons, if the error breaches fundamental or basic principles of justice or fair play or if the error is patent and/or flagrant, but not

¹ (2019) 2 SCC 499 : 2018 SCC OnLine SC 2686

otherwise. However, even in cases where the High Court finds an apparent factual error which goes to the root of the decision, the appropriate course of action would be to give the opportunity to the authority concerned to rectify the error. It is only in the rarest of cases, where the factual error is so obvious that it is rectifiable by the Court itself, that the Court might, to prevent delay and consequential denial and/or miscarriage of justice, rectify the error.”

9. In the above backdrop, there is no merit in the present writ petition.
10. Accordingly, **WPA 11509 of 2009** stands **dismissed** without any order as to costs.
11. Connected applications, if any, are also, thus, disposed of.
12. Interim order, if any, also stands vacated.
13. Parties to act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.
14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Ajay Kumar Gupta, J)