

25.02.2025

Court No.23

DL-14

(pp)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 25410 of 2023

Tuhina Parvin

versus

The State of West Bengal & Ors.

Mr. Balai Lal Sahoo,

Mr. Md. Kutubuddin

....for the petitioner.

Mr. Rezaul Hossain

....for the State.

The writ petitioner participated in a selection process for direct recruitment of Anganwadi Worker to be filled up in Nabagram Panchayat Samity, District – Murshadabad under Sub-Divisional Officer, Kandi, which was initiated by publication of a notice dated 6th December, 2022. The petitioner says that after participating in the written examination held on 28th May, 2023, the petitioner was not informed about anything. The petitioner was also not called for the interview. In such situation, the petitioner made a query under Right to Information Act, 2005 on 4th September, 2023 seeking answer to the following queries:

- 1) Please inform the marks obtained by me.
- 2) Please inform me the cut off marks.
- 3) Please provide me a certified copy of my answer sheet/OMR sheet.

- 4) Please provide a model answer sheet/answer key.
- 5) Please allow file inspection of answer sheet/OMR sheet.

No reply was given to the said query which prompted the petitioner to approach this Court on 18th October, 2023. However, on 12th October, 2023 a list of selected candidates was published. The petitioner alleges that malpractice has taken place in respect of the selection process, and as such, the same is required to be interfered with by setting aside and/or cancelling the list published on 12th October, 2023.

The petitioner had also sought for an interim order restraining appointment against the vacancy for which the petitioner applied.

The State respondents were directed to file a report by an order dated 5th August, 2024. The report affirmed on 21st August, 2024 was filed on 9th December, 2024. The petitioner has affirmed an exception on 15th January, 2025 which was filed on 12th February, 2025.

The main thrust of the petitioner's attack to the selection process is change in rule of game. The petitioner alleges that after the parameters of the selection process being set and published in the advertisement, the respondents have admittedly taken recourse of a memorandum dated 8th September, 2023 which has been admittedly published after the written

examination under the selection process had taken place. The petitioner says that this is contrary to the ratio laid down by the Hon'ble Supreme Court in the judgment delivered on 7th November, 2024 by a Five-Judge Bench in Civil Appeal No.2634 of 2013 (Tej Prakash Pathak & Ors. vs. Rajasthan High Court & Ors.). Relying paragraphs 30, 38 and 42, the petitioner alleges that the rule has been changed in the midst of the selection process as the respondents have adhered to a memorandum dated 8th September, 2023, which has admittedly published after the written examination took place. The petitioner, therefor, says that the selection list should be set aside and/or quashed.

On behalf of the State respondents, it is submitted that in the advertisement itself it has been clearly stated about short-listing of eligible candidates after the written examination. The advertisement clearly provides that a selection of eligible candidates in the written examination can be made in the ratio of 1 : 5. Following that procedure the selection list has been published on 12th October, 2023.

The respondents say that even if the memorandum on which the respondents has referred to had been published subsequent to the written examination, then also there is no change in the rule of game as the advertisement clearly stipulates such short-listing of candidates.

It is also well-settled principle of law that where there are innumerable candidates participating in a selection process, the selection committee can adopt to a short-listing of candidates. The respondents also say that the petitioner obtained 62 marks out of 90 in the written test wherein the cut-off marks is 73.5 out of 90. The petitioner, therefor, did not come within the zone of short-listed candidate in the ratio of 1 : 5, and as such, the petitioner's name was not included in the selection list.

Countering the argument of the respondents, it is submitted by the petitioner by referring to a document annexed at page 39 of the writ petition which, according to the petitioner, is a document downloaded from the official website of the respondents wherein the cut-off marks for ST, SC, OBC and GEN are respectively 45%, 48%, 52% and 55%. The said document though has a heading "Murshidabad Anganwadi Cut Off Marks", but does not refer to any particular selection process. In absence of a specific reference to the selection process in hand, I am unable to accept the same as it relates to the selection process which is under challenge and wherein the petitioner participated.

It is also found that all the vacancies in respect of the subject selection process including the vacancy against which the petitioner applied has been filled up. Once the vacancies are filled up the selection process

comes to an end. It will be of academic interest to probe into the correctness of the selection process when the petitioner even if is successful will not be able to get any job as no vacancy remains unfilled.

Considering all the aspect and that the petitioner approached this Court on 18th October, 2023 after publication of the selection list and finding herself to be unsuccessful in a selection process wherein she participated, I am not inclined to entertain the writ petition.

The writ petition is accordingly dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)