

Form J(2)
Sl.No.16
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**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Aniruddha Roy

WPA 29130 OF 2024

Kajali Bibi

Vs.

State of West Bengal & Ors.

For the petitioner	:	Mr. Robiul Islam, Adv. Mr. Masooq Rahaman, Adv.
For the Respondents / State	:	Mr. Biswabrata Basu Mallick, AGP Mr. Biman Halder.
For the Respondent No.7	:	Mr. Manas Kr. Das, Adv. Ms. Shabana Hasin, Adv.
Heard on	:	August 11, 2025
Judgment on :	:	August 11, 2025

Aniruddha Roy, J. :

Mr. Robiul Islam, learned Advocate appears for the petitioner.

Mr. Biswabrata Basu Mallick, learned Additional Government Pleader
with Mr. Biman Halder, learned Advocate appears for the respondents State.

Mr. Manas Kr. Das, learned Advocate along with Ms. Shabana Hasin, learned Advocate appears for the private respondent no.7.

Facts :

1. The last order dated **July 7, 2025** speaks for itself in detail.
2. The essential facts are narrated.
3. The private respondent no.7 by virtue of a previous order of this Court dated **July 11, 2024** in a previous writ petition, **WPA 14937 of 2023** has already received employment as **ASHA** karmee. In the previous writ petition, the present writ petitioner was the private respondent, whose appointment was challenged. The previous writ petition was allowed directing to grant employment to the private respondent herein with an observation that, taking away of employment of the petitioner in the instant writ petition, being the private respondent in the previous writ petition was an independent cause of action and no opinion was expressed on the issue of taking away employment of the instant writ petitioner. The order dated **July 11, 2024** is **Annexure-P15, at page 24** to the instant writ petition.

Submissions :

4. The petitioner herein, through the instant writ petition, has challenged the impugned reasoned order dated **January 17, 2023** passed by the **Sub-Divisional Officer, Domkal, Murshidabad**. On a scrutiny of the said impugned order it would appear that, on the basis of a previous joint inspection held by the BDO, Jalangi and BMOH, Jalangi, the instant petitioner

was found to be a resident of the locale and, accordingly, Appointment Letter was issued in favour of the instant petitioner dated **November 16, 2022, Annexure-P4 at page 22** to the writ petition and since then the petitioner was in employment.

5. The impugned reasoned order further shows that, by virtue of a subsequent inquiry, conducted by the BDO, Jalangi, one of the same authorities who conducted the previous inquiry and gave a report in favour of the private respondent herein showing that, the private respondent is the only resident of the locale and eligible for the employment. On such plea, by virtue of the said reasoned order dated **January 17, 2023**, the employment of the petitioner herein was taken away and the private respondent was directed to be employed.

6. Today Mr. Biswabrata Basu Mallick, learned Additional Government Pleader submitted a report forwarded by a letter dated **August 8, 2025** issued by the SDO, Domkal, Murshidabad, the same is taken on record. The relevant portion from the report is quoted below :

“17. A separate enquiry conducted for the erroneous report submitted with respect to the residential status of five number of candidates who appeared in the interview for the given post.

18. The command area of polladanga sub center is a diffused boundary, so when the residential status of all the applicants were determined by the ANM of Polladanga RHC an inadvertent mistake had taken place from her end but later the residential status of all the candidates were re-examined by a team of SEO, BIO OFJ JALANGI PANCHAYET SAMITY, EOMEE OF JALANGI DEVELOPMENT BLOCK, ANM OF POLLADANGA RCH, and MENUKA KHATUN, ASHA JALANGI. It was established that KAJOLI BIBI is residing 166 mt. away from southern boundary of the said ASHA area.”

Decision :

7. On a careful scrutiny of the said report, this Court finds no cogent, sufficient or convincing explanation with regard to variance of finding of the inquiry at the two-stages. The most surprising is that, the inquiry officer being the one and only at both stages, who was the jurisdictional BDO, Jalangi. On the basis of the first stage inquiry the instant petitioner was appointed. When a responsible State Officer comes with the fact finding inquiry, the law presumes such an inquiry has been conducted with utmost carefulness and sincerity upon scrutiny of all the relevant facts existed at the time of inquiry, on the basis whereof the inquiry report shall have to be prepared. The jurisdictional BDO being such a responsible authority of the State, is expected to carry out his inquiry with utmost sincerity and upon scrutiny of all the relevant materials at the relevant point of time.

8. In the facts of this case admittedly on the basis of the said first stage inquiry report the instant petitioner was appointed and she was granted the employment. At the second stage of inquiry by the same authority, her employment was taken away. Such an act on the part of the State authority is not accepted by this Court. Moreover, the variation of finding in both the two-stages inquiry reports are not sustainable in law and facts, as no cogent reason was shown.

9. The concerned BDO has to take the full responsibility of the situation.

10. The last order dated **July 7, 2025** has also recorded that, the appropriate authority shall be at liberty to consider if the petitioner can be resumed to her employment, in the meantime, by exercising the discretion of the authority, without affecting the employment of the private respondent no.7.

11. This Court now is of the considered view that, the situation has not altered any further, as no convincing explanation has arrived before this Court with regard to the variance in the said two-stages fact finding reports, where the fact finding authority was, *inter alia*, one and only.

12. In view of the foregoing reasons and discussions, the impugned reasoned order dated **January 17, 2023** stands **set aside** and **quashed**.

13. The respondent no.4 is directed to provide an immediate appointment to the petitioner at the relevant sub-centre for which the petitioner has applied for and if not possible, then any other nearest sub-centre within Jalangi block, irrespective of the residential address of the petitioner. The appointment shall be provided positively within a period of **four weeks** from the date of communication of this order.

14. It is further made clear that, the appointment of the private respondent no.7 herein shall not be affected.

15. With the above observations and directions this writ petition, **WPA 29130 of 2024** stands **disposed of**, without any order as to costs.

16. The parties are to act on the server copy of this order duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)