

(2012) 07 CAL CK 0022**Calcutta High Court****Case No:** Writ Petition No. 1231 (W) of 2012

Shyamali Patradhar (Bauri)

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision: July 10, 2012**Citation:** (2013) 2 CHN 682**Hon'ble Judges:** Biswanath Somadder, J**Bench:** Single Bench**Advocate:** Chandreyi Alam and Runu Mukherjee, for the Appellant; Lalit Mohan Mahata and Prasanta Behari Mahata, for the Respondent**Final Decision:** Dismissed**Judgement**

Biswanath Somadder, J.

Affidavit of service filed in Court today be kept on record. Having heard the learned advocate for the parties and upon perusing the instant application, it appears that the petitioner had been appointed to the post of Anganwari Sahayika under the Child Development Project Officer, Labhpur, Birbhum, in terms of an appointment letter dated 29th November, 2007. The petitioner has stated that she joined her post on 30th November, 2007. In paragraph 11 of the writ petition she has further stated that the concerned Child Development Project Officer had subsequently taken away her original appointment letter and asked her not to resume her duties. According to the petitioner, she was a scheduled caste candidate and was appointed to the post-in-question on such basis. It is submitted by the learned advocate for the writ petitioner that the petitioner's right to continue with her job as an Anganwari Sahayika was illegally taken away by the concerned Child Development Project Officer. She relies on a judgment of the Supreme Court in the case of Suman Verma Vs. Union of India (UOI) and Others, to contend that the writ petitioner, having fulfilled the requisite eligibility criteria at the time of joining service, ought to have been allowed to continue as an Anganwari Sahayika.

2. On the other hand, learned advocate for the State submits, on instruction, that on the date of interview, the petitioner never produced any scheduled caste certificate. Even on the date of her appointment, i.e., on 29th November, 2007, she never possessed any scheduled caste certificate. According to the learned advocate, in terms of the prevailing rules and guidelines as applicable, it was incumbent on the part of the writ petitioner to have produced her scheduled caste certificate prior to her appointment, in order to demonstrate her eligibility as a scheduled caste candidate, which, admittedly, she never produced. In such circumstances, the writ petitioner was not allowed to work as an Anganwari Sahayika by the concerned Child Development Project Officer.

3. It is the admitted position that on the date of interview, i.e., on 26th November, 2007, the writ petitioner never produced any scheduled caste Certificate before the Interview Board. The appointment letter in favour of the writ petitioner was issued by the Child Development Project Officer, Labhpur, Birbhum, being the respondent No. 4, on 29th November, 2007. It has been stated by the petitioner herself, in paragraph 12 of the writ petition, that she received her caste certificate only on 23rd June, 2008, which was issued by the Sub-Divisional Officer, Bolpur, Birbhum. It is, therefore, clearly evident that as on the date of interview and even subsequently on the date of issuance of appointment letter in her favour, she never possessed any scheduled caste certificate. The question of her being treated as a scheduled caste candidate could have arisen only on production of a valid scheduled caste certificate issued by a competent authority before the interview took place or, at least, before her joining service as an Anganwari Sahayika. Mere assertion on her part that she belonged to a scheduled caste community was not enough for her to be legally recognised as a person belonging to a scheduled caste. If that is to be applied as a logic, then in case of all such appointments, there will be no necessity for production of any document in support of one's candidature for the purpose of fulfilling eligibility criteria.

4. The judgment relied on by the learned advocate for the petitioner has no manner of application at all in the facts and circumstances of the instant case. The issue before the Supreme Court in that matter was in respect of an order passed by the Central Administrative Tribunal, Patna Bench, which was confirmed by the High Court of Judicature at Patna. In the facts of that case, the question that fell for determination was whether it was the appellant or the respondent No. 6 who could be considered eligible to be appointed to the post of Extra Departmental Branch Post Master at Khajuhathi Post Office, Block Manjhi. In such a backdrop, the Supreme Court had taken into consideration the factum of ownership of agricultural land by the respondent No. 6 and held that the respondent No. 6 had become owner of the agricultural land on the basis of a gift deed dated October 14, 1996, and the relevant date for consideration of her candidature was November 12, 1996, which supported the stand of the respondent No. 6 for being considered as eligible to the post-in-question. The Supreme Court also went on to observe that owning of

agricultural property and getting the name entered in Revenue Record are two different and distinct things. Mutation entry does not confer right or title to the property and the law in that regard is very well settled.

5. As observed hereinbefore, it is clear that this judgment has no relevancy in the facts and circumstances of the present case. It is certainly not an authority for the proposition that in a recruitment process, non-production of a scheduled caste certificate issued by a competent authority - being an essential document for the purpose of satisfying the eligibility criteria of a scheduled caste candidate - at the time of interview or even at the time of appointment is not fatal for securing such appointment.

6. That apart, from the facts of the case it is clear that cause of action, if any, arose sometime in December, 2007, whereas the instant writ petition has been filed in January, 2012.

7. This writ petition is thoroughly misconceived and devoid of any merit and is liable to be dismissed with exemplary costs, since valuable time has been taken up for adjudication of an utterly frivolous matter, solely at the writ petitioner's insistence, whose learned advocate was forewarned during the course of hearing that such cost would be imposed if she insisted on pressing the matter by relying on a decision, which, by no stretch of imagination was even remotely relevant in the facts and circumstances of the instant case, but, would nevertheless, be required to be discussed in the judgment to be pronounced by this Court; thereby allowing consumption of precious time of an already overburdened writ Court and impeding the process of Court. The writ petition is, therefore, dismissed with costs assessed at 200 GMs. to be paid to the Calcutta High Court Legal Services Committee. Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.