

(2011) 03 CAL CK 0110

Calcutta High Court

Case No: Writ Petition No. 9351 (W) of 2010 with C.A.N. No. 962 of 2011

Tapan Haldar

APPELLANT

Vs

Block Development Officer,
Mandir Bazar, South
24-Parganas

RESPONDENT

Date of Decision: March 24, 2011

Citation: (2011) 4 CHN 76

Hon'ble Judges: N. Patherya, J

Bench: Single Bench

Advocate: Udayan Chakraborty, for the Appellant; P.K. Dutta and Amar Mitra, for the Respondent

Final Decision: Allowed

Judgement

N. Patherya, J.

Sufficient cause exists for recalling the order dated 20th January, 2011. Accordingly, the order dated 20th January, 2011 is recalled and the writ petition is restored to its original file and number.

2. In view of the above, C.A.N. 962 of 2011 is allowed.

3. This writ petition has been filed for a direction upon the respondent-authorities to issue a fresh notice calling applications for the post of Anganwadi Workers.

4. The case of the petitioners is that advertisements were issued for the post of Anganwadi Workers and as per the relevant circulars notice had to be published in the places mentioned in such circular and also in local newspaper with wide circulation. No notice was issued upon the writ petitioner-Pradhan of the concerned Gram Panchayats. The notice was published in a newspaper called "Green World" which is an environmental newspaper and which does not have wide circulation. As the said notices were not published or displayed in accordance with law, the aspiring candidates were deprived from applying and therefore the notices are

contrary to the circulars, and the selection process initiated be set aside. Reliance is placed on AIR 1992 SC 2563, AIR 1975 SC 915, 1995(1) SCC 156 and 75 C.W.N. 608 for the proposition that things to be done in a particular manner and in a certain way be done in that manner or not at all. In fact, a notice was sent to the Pradhan of the concerned Gram Panchayats but such notice has not been received by the petitioners. Hence, the instant application has been filed and orders sought. As the M.L.A. has been included in the selection process, this also renders the selection process bad in view of the various circulars issued by the Central Government whereby it has been desired that M.L.As be excluded from the selection committee.

5. Counsel for the State-respondents submits that the Anganwadi Workers were for Mandir Bazar Block. Therefore, the publication has been made in the newspaper having circulation in the said Block. Notices have also been issued to the Pradhan on 4.12.2009 and Pradhan of each of the Gram Panchayats have received the said notices as will be seen from the endorsements made. Therefore, this writ petition warrants no order and the same be dismissed.

6. Having considered the submissions of the parties, on 4th December, 2009 notices were sent to the Pradhans of the concerned Gram Panchayats regarding the written examination. These were to be displayed on the notice boards. From a perusal of the document dated 4.12.2009 wherein the endorsement of the Pradhan of the Gram Panchayat who has received such notice will be evident. Pradhans of three Gram Panchayats have filed this writ petition namely, Jagadishpur Gram Panchayat, Krishnapur Gram Panchayat and Dhanurhat Gram Panchayat. As regards the petitioner No.3, it appears that such notice has been received as the Pradhan's seal appears in the document dated 4.12.2009. As regards the petitioner No. 2, no seal is present. Therefore, it cannot be presumed that the same was received by the petitioner Nos. 1 & 2. Although a submission has been made on behalf of the Pradhan of Chandpur Chaitanyapur but he is not the writ petitioner herein. Clause -V of the circular makes it mandatory upon the appointing authority to display notices at the following places:

- i) ICDS Project Office, if any
- ii) Block Development Office
- iii) Gram Panchayat Office
- iv) Primary & Subsidiary Health Centres
- v) J.L.R.O's Office and
- vi) Post Office

7. The appointing authorities have been given the option to publish the notice in a local newspaper. Such option has been exercised in the instant case and the notice has been published in the "Green World". "Green World" is a fortnightly publication

in the said area and does not have a wide circulation as postulated by the circular. Therefore, in the event appointing authorities were desirous of publishing notice in local newspaper, it should have taken steps to publish it in local newspaper of wide publication. Not having done so, the action of the respondent-authorities cannot be supported and accordingly the selection process initiated in Krishnapur Gram Panchayat and Jagadishpur Gram Panchayat cannot be sustained in the eye of law as due to lack of wide publication or display of notice at the places mentioned above, the aspiring candidates have been deprived of filing applications.

8. Accordingly, the selection process in respect of Jagadishpur Gram Panchayat and Krishnapur Gram Panchayat is set aside.

9. No such direction is given in respect of Dhanurhat Gram Panchayat as the Pradhan has put his seal and acknowledged receipt of the notice dated 4.12.2009.

10. Although the petitioner sought to contend that inclusion of M.L.A, in the selection process vitiates such process, in view of the decision in W.P. No. 14543 (W) of 2010 (Chakdaha Panchayat Samity & Ors. vs. State of West Bengal & Ors.) this issue is negated.

11. On the ground of non-publication of notice, this application is allowed and disposed of.

12. Urgent certified photocopies of this order, if applied for, be given to the parties subject to compliance with all requisite formalities.