

(2011) 08 CAL CK 0126

Calcutta High Court

Case No: Writ Petition No. 21934 (W) of 2008

Smt. Swapna Ghosh

APPELLANT

Vs

The State of West Bengal and
Others

RESPONDENT

Date of Decision: Aug. 26, 2011

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Jyotirmay Bhattacharya, J

Bench: Single Bench

Advocate: Partha Banerjee, for the Appellant; Depankar Pal, For the Private R No. 8 and Mintu Goswami, for the State, for the Respondent

Judgement

Jyotirmay Bhattacharya, J.

The Petitioner was an aspirant for the post of Auxiliary Nurse and Midwife in a Rural Health Centre in West Bengal. The Department of Health and Family Welfare of the State of West Bengal published a notification on 6th September, 2006 at Anandabazar Patrika inviting applications from the candidates for filling up the posts of Auxiliary Nurse and Midwife on contract basis in different Rural Sub-Health Centres lying in different Districts of State of West Bengal. The eligibility criteria of the candidates were also mentioned in the said notification. One of such conditions with which this Court is presently concerned, is as follows:

(vii) The candidates must be Indian citizen and should be permanent resident of the area where the sub-health centre situates and the candidates shall apply for recruitment in the said sub-health centre only.

2. The Petitioner herein, who applied for the said post, claimed that she fulfilled all the eligibility criteria for the said post. She participated in the selection process along with the other aspiring candidates. However, she was not ultimately selected for the said appointment. The Respondent No. 8 who also participated in the

selection process was ultimately selected for the said post and she has also been appointed in the said post.

3. The Petitioner herein complained that the Respondent No. 8 who was selected for such appointment was an ineligible candidate as she did not fulfill one of the eligibility criteria as mentioned in the said notification. According to her the Respondent No. 8 was not a permanent resident of the area where the sub-health centre situates in which she was appointed.

4. Despite complaints were made to various authorities of the concerned Panchayat Samity, the concerned authority did not consider the Petitioner's said grievances. Hence, the Petitioner filed the instant writ petition.

5. To establish the aforesaid contention of the Petitioner that the Respondent No. 8 is not a permanent resident of the area where the concerned Sub-Health Centre situates, she submitted certain documents such as; letter written by the Prodhan of the Majherdabri Gram Panchayat to a Sub-Divisional Controller, Food and Supply, Alipurduar, certificate issued by the Sabhapati, Alipurduar-I Panchayat Samity certifying therein that the husband of the Respondent No. 8 is a resident of Village Uttar Jitpur, under Alipurduar-I Block in the District of Jalpaiguri, certified copy of the voter list of the husband of the said Respondent etc.

6. By relying upon those documents the Petitioner contended that the Respondent No. 8 is not an eligible candidate for the said post as she is a resident of Jitpur which comes under Alipurduar-I Block and as such the concerned authority ought not to have selected her for appointment in the post in question in a Sub-Health Centre which situates within Alipurduar-II Block.

7. The Respondent No. 8 contested this writ petition by filing affidavit-in-opposition stating therein that since the time of her marriage with Sri Pallab Pandit in the year of December 2002, she has been permanently residing in the matrimonial house of Majherdabri Tea Garden Estate in the District of Jalpaiguri. It is contended by her that the Mouza Uttar Jitpur which was mentioned as the residential address of her husband in the documents relied upon by the Petitioner was originally within the Block Alipurduar-I but since the time of de limitation of the Block Alipurduar-I, the said Block was divided into two Blocks i.e. Alipurduar-I and Alipurduar-II and Majherdabri Tea Garden Estate wherein the said Respondent has been residing has now fallen within the Block Alipurduar-II. The said Respondent has annexed several documents to her said affidavit; such as voter list published in 2009, the application for correction of the voter list submitted by her husband on 8th January, 2007, certificate issued by the Member of Legislative Assembly, certificate issued by the Prodhan of the concerned Majherdabri Gram Panchayat, etc. to show that she is a resident of an area where the Sub-Health Centre, in which she was appointed, situates.

8. The Block Development Officer of Alipurduar-II Block, within whose jurisdiction the concerned Sub-Health Centre situates, has also filed an affidavit in connection with this writ petition stating therein that after inquiring into the allegation made by the Petitioner it revealed that the Respondent No. 8 is an eligible candidate. It is further disclosed by him in the said affidavit that the documents which were relied upon by the Respondent No. 8 in support of her claim to the effect that she is a permanent resident of the area where the concerned Sub-Health Centre situates, are all genuine, credible and reliable documents. It was stated by him that he found on enquiry that the said Respondent No. 8 is a resident of the area where the concerned Sub-Health Centre situates. Thus, the concerned authority has come to the conclusion that the Respondent No. 8, being an eligible candidate, was selected for the said post and as such her appointment cannot be disturbed.

9. Considering the facts and circumstances as stated above and particularly when the concerned authority, after holding an enquiry has come to a definite conclusion that the Respondent No. 8 was an eligible candidate as she fulfilled all the eligibility criteria including the residential criteria, this Court sitting in its jurisdiction under Article 226 of the Constitution of India, does not find any justification to interfere with the appointment of the Respondent No. 8 at the instance of the Petitioner who being an unsuccessful candidate has No. locus to maintain this writ petition for challenging the appointment of the Respondent No. 8.

10. Accordingly, this writ petition stands rejected.

11. Urgent xerox certified copy of this order, if applied for, be given to the parties as expeditiously as possible.