

01.07.2026
Court No. 12
ML 124
June 2026
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 163 of 2026
IA No : CAN 1 of 2026
In
W.P.A. 16366 of 2017

Sarbani Sardar (Naskar) & Ors.
-Versus-

The State of West Bengal & Ors.

Mr. Saibalendu Bhowmik,
Mr. Raj Sekhar Basu,
Mr. Subrata Bhattacharya
.....for the appellants.
Ms. Susmita Saha Dutta, AGP,
Ms. Tanushree Ghosh,
Ms. Madhurima Basu
....for the State.

Re : CAN 1 of 2026

- 1) CAN 1 of 2026 is an application for condonation of delay of 154 days in preferring the appeal.
- 2) Upon perusal of the averments made in paragraphs 5 to 8, we are satisfied that the delay has been sufficiently explained.
- 3) The delay is condoned.
- 4) The appeal is registered.
- 5) Accordingly, CAN 1 of 2026 is allowed.
- 6) In spite of service, none appears on behalf of the State respondents. We direct the learned Additional Government Pleader, Ms. Susmita Saha Dutta to appear with a junior of her choice in the matter.

Re : MAT 163 of 2026

7) The appeal has been filed against a judgment and order dated July 30, 2025 passed in W.P.A. 16366 of 2017.

8) The appellants contended before the writ court that, in response to a notice dated November 30, 2009, the appellants and some others applied for being considered for appointment to the post of Anganwadi Helper under Joynagar – II ICDS project within Maydah gram panchayat. They were called for an interview. Upon completion of the interview, the Child Development Project Officer published a panel of 13 successful candidates for the post of Anganwadi Helpers, dated September 1, 2014. As the authority did not take any step to engage the appellants and others, the writ petition was filed, inter alia, alleging inaction on the part of the authorities in granting appointment to the empaneled candidates. A prayer was made for a declaration that the life of the panel had not expired and the appellants should not be treated as disqualified candidates.

9) Her Lordship heard the respective parties and asked the State respondents to file a report. Accordingly, a report was filed before Her Lordship in the form of an affidavit, and it appears that Her Lordship had relied on a communication of the Child Development Project Officer, Jaynagar – II, ICDS Project to the effect that, the Chairman of the Project Level Selection and Monitoring Committee had tendered his resignation and no meeting had been held with regard to the said panel. However, due to efflux of time, the validity of the panel had expired and as such the

candidatures of the empanelled candidates could not be considered.

10) Learned advocate for the appellants submits that, once the appellants were empanelled, they had a right to be engaged as Anganwadi Helpers. Secondly, the authority could not have disqualified them, as they were successful at the interview. Thirdly, the authority was bound to take the recruitment process to its logical conclusion.

11) Under such circumstances, it has been urged before us that, Her Lordship failed to take into consideration such aspects before dismissing the writ petition.

12) We have perused the order impugned. In paragraph 1 to 4, Her Lordship has recorded the contentions of the appellants. In paragraph 6, which is quoted below, Her Lordship has recorded that the life of the panel had expired due to efflux of time.

“6. Finally the Child Development Project Officer Joynagar II, ICDS Project, Nimpith, Sough 24-Parganas by his Memo No. 87/ICDS (Joy II) dated 16.03.2017 informed, inter alia, that “As the Chairman of the Project Level Selection & monitoring Committee had tendered his resignation on 22.05.2015, no meeting held thereafter till now. New PLSMC has been formed now. But, the validity of previous Panel has expired. As validity of panel has expired, the other candidates are likely to be disqualified.”

13) The contents of the report in the form of an affidavit which was filed by the State respondents has been taken into consideration. The first contention of the State respondents was that, the copy of the panel which was annexed to the writ petition was a forged document. According to the State respondents, the panel also did not contain the signature of the members of the selection committee.

14) Without any approval of either the selection committee or the Director of Women and Child Development and Social Welfare or the District Magistrate In-charge of the subject ICDS Project, the panel so prepared had no legal validity.

15) Her Lordship found from the report that, 27 Anganwadi Helpers were already engaged out of 30. Thus only 3 posts were vacant. Those 3 posts were reserved.

16) Her Lordship recorded that even assuming that, the panel which was annexed to the writ petition was valid, the appellants were listed under the general category and not the reserved category. They did not have any chance for engagement. The panel was published sometime in the year 2014 and the appellants did not raise any objection that they had wrongly been empanelled under the general category, instead of scheduled Caste category. Thus, Her Lordship rightly held that, even if three persons could be accommodated against the three vacancies the appellants could not fulfill the eligibility criteria.

17) The panel dated September 1, 2014 had expired in the year 2016. No vacancy was

available in the general category in the post of Anganwadi Helper.

18) The panel which was prepared on September 1, 2014 was valid for 2 years, that is, upto August 31, 2016.

19) The meeting of the selection committee indicated that two posts were advertised, one was reserved for OBC and one for ST. Thus, the petitioners who appeared before Her Lordship, and some of whom are the appellants before us, could not have been engaged, even assuming that the panel was a valid one.

20) Under such circumstances, in view of the above factual findings and in the absence of any vested right to be engaged as Anganwadi Helpers, the order impugned before us cannot be interfered with. The entire issue has been considered by the learned Single Judge in its correct perspective. The stand of the respondents have been considered. It is well-settled that, empanelment itself, does not create any right of appointment. Reference is made to the following decisions.

21) In the matter of ***Shankarsan Dash vs union of India*** reported in ***(1991) 3 SCC 47***, the Hon'ble Apex Court held as follows:-

“7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean

that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in *State of Haryana v. Subash Chander Marwaha* [(1974) 3 SCC 220 : 1973 SCC (L&S) 488 : (1974) 1 SCR 165] , *Neelima Shangla v. State of Haryana* [(1986) 4 SCC 268 : 1986 SCC (L&S) 759] , or *Jatinder Kumar v. State of Punjab* [(1985) 1 SCC 122 : 1985 SCC (L&S) 174 : (1985) 1 SCR 899].”

22) In the matter of ***State of Haryana vs Subash Chander Marwaha and Ors.*** reported in **(1974) 3 SCC 220**, the Hon’ble Apex Court held as follows:-

“11. It must be remembered that the petition is for a mandamus. This Court has pointed out in *Dr Rai Shivendra Bahadur v. Governing Body of the Nalanda College* [AIR 1962 SC 1210 : 1962 Supp (2) SCR 144 : (1962) 2 SCJ 208 : (1962) 1 Lab LJ 247 : (1962) 4 FIR 507.] that in order that mandamus may issue to compel an authority to do something, it must be shown that the statute imposes a legal duty on that authority and the aggrieved party has a legal right under the statute to enforce its performance. Since there is no legal duty on the State Government to appoint all the 15 persons who are in the list and the petitioners have no legal right under the rules to enforce its performance the petition is clearly misconceived.”

23) Accordingly, the appeal is dismissed.

24) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Smita Das De, J.)