

24.02.2022
Item no.4 & 5
Ct. No.04
Saswata

MAT 181 of 2022
State of West Bengal
-vs-
Sandeep Prasad & Ors.
with
IA No. CAN 1 of 2022
+
MAT 173 of 2022
Keya Kapri & Ors.
-vs-
Sandeep Prasad & Ors.

Mr. S.N.Mookherjee, Ld. AG
Mr. Anirban Roy, Ld. GP
Mr. Bhaskar Prasad Vaisya
Mr. Samrat Sen
Mr. Saaqib Siddiqui
Mr. Joydeep Banerjee
Mr. Ayan Chakrabroty
Mr. Aviroop Mitra
Ms. Shalini Mukherjee
... for the petitioner/State

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Mr. Arkadeb Biswas
Mr. Dipa Acharyya
Mr. Arka Nandi
... for the petitioners/respondents

Mr. Santanu Mitra
... for the WBBSE

Mr. Arunava Banerjee
... in person for the committee

Mr. Subir Sanyal
Mr. Somesh Ghosh
Mr. Subhankar Nag
Mr. Jasojeet Mukherjee
... for the added respondents

Mr. Kishore Datta, Sr. Adv.
Dr. Santanu Patra
Ms. Supriya Dubey
... for the WBCSSC

Pursuant to the order dated 22nd February,
2022, Mr. Banerjee, a member of the committee

constituted by this Court, produced the documents containing the relevant records pertaining to the appointment at Group-‘D’ post.

We have perused the papers after opening the sealed cover file and made an enquiry from the Commission whether any such recommendation was made beyond 4th May, 2019. It is all along a candid stand of the Commission that no recommendation beyond the expiry of the period i.e. the 4th May, 2019 was ever issued by the Commission. The Board has issued letter of appointment to several candidates and the names of 573 candidates have been revealed but we do not know whether that is the only number or may appear to be more during the investigation/enquiry by the committee. The record reveals the shocking state of affairs and we refrain ourselves to make any observations thereupon in the midst of an investigation/enquiry by the committee constituted by this Court. Though we extended the period for completion of the entire exercise for a period of four months, we have been given impression that it may not last so long. We hope and trust that the Commission shall complete the entire exercise of investigation/enquiry and submit a report for passing appropriate order. We must record that the Commission and the West Bengal Board of

Secondary Education have prevaricated the stand at the different stages of the litigation initiated before this Court.

The moment prima facie evidence has been produced raising a serious concern on the modalities of the recommendation/appointment made to the candidates not only beyond the expiration of the panel but to the candidates who were not included in the panel itself, such stand has been taken in order to shirk the responsibilities.

The Court cannot be a mute spectator and allow the litigant to get a clean chit even if they took a stand that they have not issued any recommendation. The Commission is answerable for such act and cannot shy away from such responsibilities by taking a stand that no recommendation was issued. The investigation/enquiry is at the advanced stage and we hope that it would be completed in near future and, therefore, direct the Committee to complete the task as entrusted upon them as early as possible.

However, Mr. Sanyal, learned advocate appearing for the candidates who have been benefited with the appointments under the aforesaid recruitment process submits that the Commission has taken a diametric opposite stand in the instant matter

where in fact on the basis of an order passed in one of the litigations filed before this Court the panel was directed to be published which, in fact, was done in 2019 and the period for its expiration can be reckoned from the date of publication in terms of the relevant rules. Be that as it may, the question is still at large whether there has been a recommendation by the commission in favour of the candidates including the clients of Mr. Sanyal and in course of hearing another question that appears whether the panel was published in terms of the order and production of such panel is evitable in order to ascertain who were the successful candidates.

The commission is directed to produce all the relevant documents to the committed within two days from date including the panel published on the website. Let this matter be listed after three weeks when this Court would evaluate the progress of the Committee. The prima facie materials have been found and we, on an earlier occasion opined that the persons who have been appointed should not be condemned without being heard and since Mr. Sanyal is appearing for those persons who have been subsequently added in terms of the order of the Single Bench, we made it clear that whatever the amount on account of salary or other benefit

as admissible to the post for which the appointment has been made in their favour received by them, shall be subject to the outcome of the instant appeal and that in the event such appointments are found to be illegal, they have to re-compensate the State exchequer.

List the matter after three weeks. Let the interim order continue for a period of four weeks or until further orders. The documents produced by Mr. Banerjee, one of the members of the committee is returned to him.

We further direct Mr. Bhattacharya to submit a copy of the supplementary affidavit and the writ petition showing names of the respondents to the committee in course of this week.

Since, we have extended the period for completion of investigation /enquiry for a period of 4 months, the initial remuneration which was fixed, in our opinion, is not appropriate. We, thus direct further payment of Rs.1,00,000/- (One Lakh only) to Mr. Justice R.K.Bag (retired) and Rs.50,000/- (Fifty Thousand only) to Mr. Arunava Banerjee as ad hoc remuneration.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)