

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

WA. No.137 of 2023

Anima Debnath & Another.

.....Appellants

_V_E_R_S_U_S_

The State of Tripura & Others.

.....Respondents.

For Appellant(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. K. Nath, Advocate.
For Respondent(s)	:	Mr. S. S. Dey, Advocate General. Ms. A. Chakraborty, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

_O_R_D_E_R_

11.12.2023

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the appellants also heard Mr. S. S. Dey, learned Advocate General assisted by Ms. A. Chakraborty, learned counsel appearing for the respondents.

[2] The present appeal has been filed against the judgment and order dated 06.10.2023 passed by the learned Single Judge in WP(C) No.560 of 2023.

[3] The appellants have prayed for the following reliefs:

i. Admit the appeal.

ii. Call for the records.

iii. After hearing both the parties, set aside the impugned judgment and order dated 06.10.2023 passed by the learned Single Judge in WP(C) No.560 of 2023 and allow the appeal by granting reliefs as prayed for in the.”

[4] the facts in brief are that by memo dated 22.09.2022 issued by the State Project Director, Samagra Shiksha, Tripura, online applications were invited from bona fide Indian citizens residing permanently in Tripura for filling up the vacant contractual posts of Urban/Block Resource Persons and Cluster Resource Person under Samagra Shiksha, Tripura in different Districts, primarily for a period of one year which may further be extended on rendering of satisfactory service. In the advertisement number of vacancies against 8 Districts was mentioned. The appellants applied for the said post in Bengali subject. The

appellants were selected and came in the zone of merit list, which was published vide notification dated 05.06.2023.

[5] But, in the said notification names of the appellants were shown under the subject of History instead of Bengali. The appellants prayed for rectification of such mistake perpetuated by the respondents and filed representation before the respondents. But till date representation of the appellants failed to evoke any response. Hence, the present appeal has been filed praying for directing the respondents to modify the notification dated 05.06.2023 by considering the appellants against the subject Bengali and in consequence thereof recast the merit list, placing the appellants at the appropriate place on the basis of marks scored by them, as per notification dated 05.06.2023, issued by the State Project Director, Samagra Shiksha, Tripura.

[6] Mr. P. Roy Barman, learned counsel assisted by Mr. K. Nath, learned counsel appearing for the appellants has submitted that the learned Single Judge proceeded erroneously by holding that the results of the appellants have been tabulated against the roll numbers allotted to them which in the case of the appellants show that they had applied for the subject of History. The learned Single Judge has failed to consider that the respondents could not produce iota of evidence so far assigning the Roll Numbers.101245 & 101708 respectively matching with the corresponding system generated acknowledgements, vide candidate ID No.101662 & 102076, respectively of the appellants and as a result thereof on the basis of the assigned Roll Nos.101245 & 101708 respectively of the appellants published the merit list which resulted into dismissal of the writ petition.

[7] The learned Single Judge relied on the so called system-generated data i.e. Annexure-2 of counter affidavit of the respondents. The learned Single Judge ought to have called for original applications of the appellants and relevant data stored in respect to the appellants from the custody of the respondents to be satisfied as to whether the appellants applied for the post in Bengali or in History subject.

[8] It has been further contended that the appellants applied for the posts on different dates at different times as evidenced by their respective system-generated online acknowledgement date and time. It is evident between the periods of submissions of the applications by the appellants that other

candidates applied for the posts. Nevertheless, Annexure-2 of counter affidavit distinctly indicates that only the appellants applied as if serially and in the intermediary period of submissions of two applications of the appellants, no other applicant submitted their applications, which is unrealistic and unreliable. Instead Annexure-2 indicates a compiled product of cut, copied and inserted data. Annexure-2 suggests that in the so called system generated data, there are 25 rows. However, the annexed sheet indicates only 6 rows, which further fortifies, that the annexed sheet is manipulated by blending cut, copy and inserted data instead of original system generated data.

[9] Annexure-2 is a blended product instead of a system generated original data sheet, as evident from the date and timing of the updated status, which for the appellants are pretty different. In other words, the appellants submitted their applications on 23.10.2023 at 1.38 pm and 25.10.2022 at 10.49 am respectively. So, the respondents with ill-motive for their mala fide intentions prepared this data sheet by fabricating the original system generated data.

[10] Annexure-2 suggests that the subjects in which the appellants done their graduation and post-graduation. It cannot substantiate in which subject, the appellants applied for the post of Urban/Block Resource Person post. Reflection of graduation/post-graduation subjects in the manipulated data sheet cannot prove that the appellants allegedly applied for the said posts in the subject History instead of Bengali. The learned Single Judge absolutely failed to consider that Annexure-2 could not inspire confidence of this Court and thus required to call for the original documents related to the appellants from the respondents.

[11] In reply, Mr. S. S. Dey, learned Advocate General assisted by Ms. A. Chakraborty, learned counsel appearing for the respondents has submitted that the acknowledgement message/slip generated on successful submission of application, mention the respective Id. Number of the candidate but, there is no reflection of any subject. Similarly, the admit cards issued for BRP/URP, but there is no mention of their choice of subject.

[12] The notification showing the details of the marks secured by the candidates in the respective subject shown against their name, but it is not a merit position based list of candidates. Further, even after publication of said

notification dated 05.06.2023 showing the names of the appellants securing the marks reflected out of 100 in the subject History, they submitted their application for engagement on 24.07.2023 and 25.07.2023. They have filed their prayer on 02.08.2023 and 28.07.2023 respectively to which the competent authority has issued reply to them. It is worthy to mention herein that the notification dated 18.07.2023 issued by the District Project Coordinator, Sepahijala District Zonal Office, Bishramganj, it was clearly mentioned as follows “Scrutiny Team at the District Project Office shall verify the documents pertaining to the post applied for and if not found in order, and then the candidature of the said candidates shall be liable to be rejected/dismissed.”

[13] He has further averred that in the choice of subject made by the candidates at the time of online submission of their application, the respondents have no role and they cannot interfere in such choice of the candidate to make any change/alteration or amendment. The appellants themselves made choice of their subject as History as reflected in Annexure-R/2, while submitting online application on 23.10.2022 & 25.10.2022 respectively, the respondents had no role to play in the process.

[14] I have considered the submissions of learned counsel appearing for the parties, taken note of the chronology of facts, dates and events and the relevant documents as are necessary for adjudication of this issue.

[15] The only dispute is whether the appellants applied for the subject of Bengali being Post-Graduate in the subject of Bengali under the advertisement and have been wrongly rejected in the final merit list as being shown against the subject of History. The appellants rely upon acknowledgements which refer to the Candidate ID on successful submission of their online applications whereas the appellants have themselves enclosed the admit cards. The respondents have categorically stated that the appellants had applied for the subject History and not Bengali. The merit list as annexed shows the roll number against the subject of History. The acknowledgements are not the enrollment number or the roll number. The results of the appellants have been tabulated against the roll numbers allotted to them which in the case of the appellants show that they had applied for the subject of History.

[16] In that view of the matter, the present appeal preferred by the appellants stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

B. PALIT, J

T. AMARNATH GOUD, J

A. Ghosh

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