IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION
Appellate Side

Ct. No.4 D/L 25.08.2026
(Naba) 04

F.M.A. 1197 of 2024
(ASSIGNED)

Tapas Mishra
Vs.
The State of West Bengal & Ors.

Mr. Pijus Kanti Khanra,
Mr. Uttam Banerjee
...for the Appellant

1. Heard the learned advocate for the appellant/writ petitioner.
2. The writ petitioner participated in a recruitment process for appointment of Teachers. The petitioner did not emerge successful in the recruitment process, which resulted in the petitioner challenging the recruitment process on grounds of irregularity and illegality.
3. The first writ petition bearing WPA No.17756 of 2017 was filed. The Writ Court after considering the matter directed the Commissioner to give an opportunity of hearing to the writ petitioner and consider his claim, whether he was worthy of appointment in the process or not. The petitioner thereafter was afforded an opportunity and a reasoned order was passed thereupon, part of which is enclosed in the present proceeding.

4. The learned advocate for the appellant has handed over the full copy of the reasoned order dated 09.02.2023 before the Court today.

5. It appears from the same that the writ petitioner was seeking benefit of a PH category candidate. The petitioner had scored 42.61 total score, falling below the cut off marks of 43.18. He was not found worthy of selection. The petitioner again filed a writ petition assailing the recruitment process on grounds of irregularity and illegality and seeking a direction for his appointment.

6. It is an admitted position emerging from the records that he chose not to challenge the reasoned order dated 09.02.2023, whereby and whereunder his claim was rejected by the Commissioner of School Education, West Bengal. The Commissioner's consideration was in compliance with the order passed in the petitioner's earlier writ proceeding, bearing WPA No.17756 of 2017.

7. Therefore, an issue arises before the Court, whether in absence of challenge to the reasoned order, the writ petition itself was maintainable.

8. The learned advocate for the appellant submits that since there is material on record to show that the recruitment process was suffering from

irregularity, in interest of justice this Court should issue a direction for the petitioner's appointment.

9. We find no substance in such plea. The petitioner chose not to challenge the reasoned order dated 09.02.2023, which was passed in compliance with the Court's directions passed in petitioner's earlier writ petition. In absence of challenge to the rejection order containing grounds for rejection, which remain unassailed, there is no scope for issuing a direction for petitioner's appointment in exercise of extraordinary and discretionary writ jurisdiction.

10. The relief in writ petition, therefore, itself was not maintainable.

11. Insofar as alleged irregularity in the recruitment process, we find that the same issue was considered in the earlier writ proceeding (WPA 17756 of 2017). Thereafter a direction was issued by the Writ Court to the Commissioner to consider whether the petitioner can be given employment or not. The Commissioner after due consideration has passed a reasoned order, which is not put to challenge.

12. Therefore, we find that the alleged irregularities/illegalities in the recruitment process attained finality by the order dated 05.09.2022, passed in WPA 17756 of 2017. In

compliance of the order dated 05.09.2022 passed in the writ proceeding, the petitioner approached the Commissioner for consideration of his claim for appointment. The same was rejected by the reasoned order of the Commissioner dated 09.02.2023. Thus, there was no scope for the petitioner to re-agitate the issue of alleged irregularities/illegalities in the recruitment process which stood concluded by the order dated 05.09.2022, passed in WPA 17756 of 2017. The reasoned order issued by the Commissioner pursuant to order of the Writ Court was also not put to challenge as considered above. Thus there was no scope for the petitioner to claim issuance of direction by the Writ Court in the subsequent proceeding to offer him appointment on the post of Assistant Teacher pursuant to the recruitment process without assailing rejection of his claim by the Commissioner.

13. In view of our considered opinion, we find that the order dated 22.03.2024 passed by the learned Single Judge in WPA 2486 of 2023, requires no interference.

14. The appeal is accordingly dismissed.

15. There will be no order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Madhuresh Prasad, J.)

(Partha Pratim Roy, J.)