

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

BEFORE:

The Hon'ble Mr. Justice Ravi Krishan Kapur

WPA 3755 of 2008

CAN/1/2019 (Old No:CAN/6477/2019)

Smt. Surekha Sarkar

-vs-

The State of West Bengal & Ors.

For the petitioner : Mr. Partha Banerjee ,

For the respondent nos.4 & 5 : Mr. Kunal Ganguly,

For the respondent no.6 : Mr. Amal Baran Chatterjee,

For the State : Mr. Soumitra Bandopadhyay,
Mr. Aniruddha Sen,

Heard on : 19.12.2019

Judgment on : 30.09.2020

Ravi Krishan Kapur, J.:

1. The petitioner assails an order dated 4th July, 2006 passed by the District Inspector of Schools (S.E.), Malda being Memo no.242 (1)/G ("the impugned order").
2. The brief facts of the case are that, the petitioner alongwith the respondent no.6 (Smt. Arati Sarkar) and one Smt. Tulan Das had participated in a selection process for the post of a Matron of the

Sadlichak High School (the school). Subsequently, an interview was held on 29th December, 2004. It is alleged by the petitioner that after the interview one Saiyed Mirazuddin, the Teacher-in-Charge of the school along with one Fazlul Haque, the then Secretary of the Managing Committee of the school had demanded a donation of Rs.3 (three) lakhs in lieu of the name of the petitioner being included in the top position of the panel. The petitioner further alleges that pursuant to the demand for donation the father of the petitioner had sold different plots of his land and immediately arranged a sum of Rs.2.5 lakhs which was handed over to the then Teacher-in-Charge with a request to obtain some time to pay the balance amount of Rs.50,000/-. It is further alleged by the petitioner that, subsequently the Teacher-in-Charge and the then Secretary of the school upon the failure of the petitioner to procure and pay the balance sum of Rs.50,000/- did not enlist the name of the petitioner as serial number one (1) in the panel for the aforementioned post. It is also alleged on behalf of the petitioner that as far as the petitioner has been able to ascertain the sum of Rs.2.5 lakhs handed over by the petitioner had also not been deposited in the School Development Fund. The petitioner also alleges that, an amount of Rs.75,000/- was also demanded from Smt. Tulan Das in lieu of the same position which had been offered to the petitioner. The petitioner further alleges that, since the respondent no.6 had paid the entire sum of Rs.3,00,000/- she has

secured the position as serial number one (1) on the panel. Consequently, the name of the respondent no.6 was forwarded to the District Inspector of Schools (S.E.) Malda for approval.

3. Upon being informed of the empanelment of the respondent no.6, the petitioner had made a representation before the District Inspector of Schools (S.E.) Malda narrating all the facts pertaining to the monetary transaction and raising an objection to the legality and the validity of the panel forwarded by the school.
4. Thereafter, the petitioner also filed a writ petition being WP No.8772 (W) of 2005 alleging that the District Inspector of Schools (S.E.) Malda had failed and neglected to consider the representation of the petitioner. By an order dated 10th February, 2006, the said writ petition was disposed of by a Single Judge of this Hon'ble Court, inter alia, directing the District Inspector of Schools (S.E.) Malda to consider the representation of the petitioner after providing the petitioner an opportunity of hearing.
5. Pursuant to the aforesaid order dated 10th February, 2006 passed in WP No.8772 (W) of 2005, the District Inspector of Schools (S.E.) Malda had directed the parties to appear before him and after giving an opportunity of a hearing, had passed an order dated 4th July, 2006, inter alia, rejecting the representation of the petitioner. It is this order which has been impugned in this proceeding.

6. Upon the filing of the instant writ petition an interim order dated 28th March, 2008 had been passed by this Court restraining the District Inspector of Schools (S.E.) Malda, from giving approval to the appointment of the respondent no.6 as made until further orders. However, the District Inspector of Schools (S.E.) Malda not having received the restraining order had proceeded with the appointment of respondent no.6 on 29th April, 2008 with effect from 10th January, 2008.
7. Subsequently, upon receipt of the interim order restraining the District Inspector of Schools (S.E.), Malda, the school was duly informed to keep the approval of the appointment of the respondent no.6 in abeyance till the disposal of the instant writ petition. Significantly, the respondent no.6 had already been appointed in the designated post and also received her salary. In such circumstances, the respondent no.6 filed a writ petition being WP No.21324 (W) of 2019 challenging the letter dated 16 August, 2010. By an order dated 14th September, 2010 this Hon'ble Court in WP No.21324 (W) of 2019 was pleased to dispose of the petition in favour of the respondent no.6 directing the Managerial Committee to allow the respondent no.6 to continue her services with a proviso that the financial benefits extended to her shall be dependent on the result of the instant writ petition.

8. The respondent no.6 had also filed a vacating application being CAN no.6477 of 2019 in the instant writ petition against the order dated 28th March, 2008 which was heard along with this writ petition.
9. The matter was taken up for hearing on diverse dates. The parties had also filed their respective Notes of Arguments.
10. The primary contention of the petitioner was that the entire selection process for the designated post was fraught with irregularities and malpractice. It was further contended on behalf of the petitioner that the entire selection process was illegal, irregular and unauthorized and that a demand for donation of Rs.3,00,000/- was made to the petitioner by the concerned officers of the school. It was further alleged on behalf of the petitioner, that since this is not a criminal trial there was no need for strict documentary proof pertaining to the alleged demand for donation made by the concerned officers of the school. It was also alleged on behalf of the petitioner that the statements and the information recorded by the petitioner clearly proved that the respondent no.6 had secured her place only after making payment of Rs.3,00,000/- to the school authorities.
11. It was contended on behalf of the respondent nos.3 and 4, that the Selection Committee prepared the panel according to the merits of the respective candidates and there were no irregularities whatsoever. It was further alleged on behalf of the authorities that the failure of the writ

petitioner in being able to secure a position in the panel had resulted in a false complaint against the then Managing Committee. It was further alleged on behalf of the concerned respondents that there was no evidence which was adduced with regard to payment being made by the petitioner or by the respondent no.6 to secure her position in the panel. The Managing Committee had forwarded the panel for approval to the office of the District Inspector of Schools (S.E.) Malda within the prescribed period of fifteen days and that there was no illegality or irregularity or unauthorized act on the part of the respondent school authorities. Moreover, the impugned order considered all the relevant facts and circumstances of the case and was a reasoned order which has been arrived at after considering all the documentary evidence. Accordingly, there was no scope for any interference with the impugned order. Lastly, it was contended on behalf of the answering respondents that the writ petition has been filed with malafide and oblique intention solely to harass the school authorities. It was contended on behalf of the respondent no.6 that the writ petition was based on frivolous grounds and deserved to be dismissed. Moreover, the entire allegation of bribery or donation was unsubstantiated and without any admissible proof whatsoever.

12. The District Inspector of Schools (S.E.) Malda was also represented and it was submitted on his behalf that the orders of the High Court were

strictly complied with and the impugned order was passed after giving an ample opportunity to the petitioner.

13. I have considered the arguments and rival contention of all the parties. I have also considered the pleadings filed by the parties and considered their Notes of Arguments. At the outset, the foundation of the case of the petitioner rests on an allegation of alleged bribery which according to the petitioner was made by some of the members of the Selection Committee of the school in preparing the panel. It is alleged on behalf of the petitioner that a sum of Rs.3,00,000/- was demanded from her out of which she paid a sum of Rs.2,50,000. I find that there was no evidence whatsoever which the petitioner was able to adduce before the authorities or before this Court to substantiate the demand for donation or the factum of any payment having been made by her. At this stage, it is important to highlight the limited jurisdiction of a Writ Court. It is well established that a Writ Court is not a fact finding court. Ordinarily, a Writ Court does not enter into a factual enquiry and then adjudicate upon the correctness or otherwise of the fact. This principle has been repeatedly reiterated in several decisions of the Hon'ble Supreme Court as well as the different High Courts [*Management Madurankakam Co-operative Sugar Mills vs. S. Viswanathan* (2005) 3 SCC 193 paragraph 12, *Dr. N. Balakrishnan vs. Nehru Memorial Museum and Library Society & Others* (2010 SCC OnLineDelhi 3717 paragraph 21)]. I am also of the view that in

the given facts and circumstances of the case when such a serious allegation of “bribery” has been made without there being any credible or admissible evidence to substantiate the same there is no reason to interfere with the impugned order.

14. I have carefully considered the impugned order. I am of the view that the same does not justify any interference whatsoever. The District Inspector of Schools (S.E.) Malda in passing the impugned order has considered all the relevant facts and circumstances of the case. There has been no violation of the principles of natural justice. The impugned order is a reasoned order and I find no illegality nor perversity nor contravention of any law nor unfairness which warrants any interference with the impugned order.

15. In the circumstances, WPA 3755 of 2008 is dismissed. However, there will be no order as to costs. In view of the dismissal of the writ petition, CAN/1/2019 (Old No.CAN/6477/2019) is infructuous and stands disposed off. Interim orders passed in this writ petition stand vacated.

16. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Ravi Krishan Kapur, J.)