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Item No.4&5 of SL
Court No. 08

Mr. Pradip Kumar Roy
Mr. Shraboni Sarkarfor the petitioners

Mr. Dibyendra Narayan Ray
Mr. Biswarup Nandy
Mr. Subrta Ghosh
Mr. Sudipto Panda ...for the respondents

Mr. Tapan Kumar Mukherjee

Mr. Somnath Naskar

...for the State

These are the applications for recalling of an order passed by a coordinate Bench on June 30, 2020. It appears from the order dated June 30, 2020 that all the parties were represented and after hearing the parties the writ was admitted and direction have been given for filing affidavits. The coordinate Bench observed that the rights which have accrued to the private respondents by the operation of the impugned order are not interfered with and it is needless to mention that the appointment is provisional and shall abide by the writ.

It appears that the parties are to complete their affidavits by August 10, 2020. The applications filed application for recalling of the said order on the ground that the order under challenge is perverse and suffers from complete non-application of mind. The Public Service Commission being the examining body has the power to fix cut off marks or Bench Mark in the selection of best and suitable candidates for the post irrespective of the fact that the Rules in the field whether prescribed or not prescribed and the said principle was accepted by the Hon'ble Supreme

Court in catena of judgment. It is argued that the allegation made in a round about way that the rule of the game was changed in the midway which cannot be permitted. This issue is pending adjudication before the Larger Bench of the Hon'ble Supreme Court of India. It is further stated that a coordinate Bench in a similar matter has stayed the order of the like nature after taking note of the order of the Hon'ble Supreme Court of India dated July 08, 2019 in Special Leave Petition (C) No. 14519 of 2019.

In course of argument Mr. Roy has submitted that due to technical glitch his submission has not been properly recorded. However, inspite of our pain staking effort to find out any averment in support of the said submission in the application we are constrained to hold that we find none and accordingly these application of recalling are not maintainable. It is elementary that if the order does not correctly record the submission of the parties, remedy lies in filing the application for review and not an application for recalling. It is not a case where the court can be persuaded to recall an order which has been passed by a coordinate Bench after taking into consideration the submission made by the parties.

Under such circumstances we allow the applications being CAN No. 1 of 2020 (old no. CAN/3419/2020), CAN No. 3 of 2020 (old no. CAN/4233/2020), CAN No. 1 of 2020 (old no. CAN/3422/2020) and CAN No. 3 of 2020 (old no. CAN/4229/2020). However CAN No. 2 of 2020 (old no. CAN/4232/2020) and CAN No. 2 of 2020 (old no. CAN/4228/2020) are dismissed.

(Soumen Sen, J.)

(Saugata Bhattacharyya, J.)