

S/L 19
03.02.2021
Court No.26
SD

**WPA 1006 of 2021
(Via Video Conference)**

Nirmal Kumar Bhunia
Vs.
State of West Bengal & Ors.

Mr. Krishnendu Bera

...for the Petitioner.

*Ms. Sanghamitra Nandy
Ms. Munmun Tewari*

...for the State.

*Mr. Sambhu Nath Roy
Mr. Indrajit Ghosh
Ms. Tirthaa Dey
Mr. M.M. Bhattacharya*

...for the Respondent Nos.5 & 6.

Mr. Amitabha Ghosh

...for the Respondent No.7.

1. This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by an order dated November 27, 2020 approving the panel for appointment to the post of Assistant Headmaster in the school where the petitioner is an Assistant Teacher.

2. The case of the petitioner is that after the selection process, a panel was selected and the added respondent was the first candidate while the petitioner was the second candidate to that panel.

3. Subsequent to the same, the added respondent wrote a letter dated December 28, 2019 to the school authorities indicating his unwillingness to join as an Assistant

Headmaster. Subsequent to this letter, the Headmaster of the school wrote to the ADI of Schools (SE), Basirhat indicating the withdrawal of candidature of the added respondent and requesting the ADI of Schools to consider the prayer to allow the petitioner to be appointed as Assistant Headmaster.

4. It appears that no action was taken from December 30, 2019 till the date of grant of approval by the Deputy Director of School Education, West Bengal. It also appears that the ADI of Schools did not act upon the letter dated December 30, 2019.

5. Mr. Sambhu Nath Roy, counsel appearing on behalf of the school authorities, submits that criminal complaints have been filed against the petitioner by the Headmaster of the School and accordingly, he should not be appointed as Assistant Headmaster. He further submits that the petitioner has no right and/or *locus standi* to challenge the approval of the panel that has selected the most meritorious persons, that is, the added respondent for the appointment to the post of Assistant Headmaster.

6. He also submits that the resignation of the added respondent is of no material value till the same is accepted by the school authorities and the District Inspector of Schools.

7. I have heard counsel appearing on behalf of the parties and perused the materials on record.

8. In my view, this matter is required to be adjudicated by the appointing authority that approved the panel.

9. In light of the same, Deputy Director of School Education, West Bengal is directed to grant an opportunity of hearing to the petitioner, school authority and the added respondent and thereafter pass a reasoned order within a period of four weeks from date.

10. I make it clear that no appointment is to be made till the reasoned order passed by the Deputy Director of School Education, West Bengal.

11. With these observations, this writ petition stands disposed of.

12. Since, no affidavit-in-opposition has been called for the allegations made in the writ petition are deemed to have not been admitted by the respondents.

13. There will be no order as to costs.

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

(Shekhar B. Saraf, J.)