

Court No. 24

**10.03.2021**

(Item No. 30)

(AB)

**W.P.A 1511 of 2021**

Rahul Islam & Ors.

vs

The State of West Bengal & Ors.

Mr. Bratin Kumar Dey

...for the Petitioners

Mr. Ashok Bnerjee

Mr. Alope Ghosh

Mr. Arijit Dey

.... For Kolkata Municipal Corporation

Mr. Himadri Sikhar Chakraborty

Mr. Arunabha Maity

..... For the State

The West Bengal Municipal Service Commission has made an advertisement for recruiting "Conservancy Mazdoor" in 858 vacancies under Kolkata Municipal Corporation. The category wise vacancy position mentioned in the advertisement includes candidates belonging to the non-reserved category, the Scheduled Castes, Scheduled Tribes and OBC. The Exempted Category candidates are excluded from participating in the said recruitment process.

The petitioners participated in the recruitment process in the unreserved category but the petitioners presently seek consideration of their case in the Exempted category.

The petitioners submit that the advertisement is not in accordance with the provisions of law as the total number of vacancies has not been published. There is no reservation under the Exempted category.

The petitioners rely upon the notifications published in the Kolkata Gazette Extraordinary on 21<sup>st</sup> August, 2002 being Nos. 301-EMP/1M-10/2000 dated 21<sup>st</sup> August, 2002 and 302-EMP/1M-10/2000 dated 21<sup>st</sup> August, 2002 and the notification being No. 50-EMP/1M-25/98 dated 1<sup>st</sup> March 2011 published by the Labour Department, Government of West Bengal mentioning the model 100 point roster of vacancies. The petitioners submit that, they are entitled to be considered for employment in terms of the provisions of Articles 15 and 16 of the Constitution of India.

The learned senior advocate representing the Kolkata Municipal Corporation submits, upon instructions, that there are total 1223 numbers of vacancies in the Kolkata Municipal Corporation in the post of “Conservancy Mazdoor” out of which applications have been invited for only 858 vacancies comprising of 70% of the total number of vacancies. The rest 30% is reserved for the candidates from the Exempted Category.

As the petitioners claim to be the candidates belonging to the Exempted Category they ought not to be aggrieved by the advertisement that has been published for recruitment of the candidates apart from the Exempted Category.

The advertisement published by the West Bengal Municipal Service Commission has been made in accordance with the notification of the Labour Department, Government of West Bengal dated 21<sup>st</sup> August, 2002, accordingly, the petitioners ought not to be aggrieved by the same, more so because the aforesaid notifications are not under challenge. The petitioners can put forward their claim as and when recruitment to the candidates of the Exempted Category will be taken into consideration by the Kolkata Municipal Corporation. No relief can be granted to the petitioners in the instant case.

Accordingly, the writ petition stands dismissed. All interim orders passed stands vacated.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

**(Amrita Sinha, J.)**