

05.02.2021

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ns Ct.04

M.A.T. 79 of 2021

With

I.A. No.CAN 1 of 2021

Sri Ankur Bhattacharya & anr.

Vs.

The State of West Bengal & Ors.

Mr. Udaynarayan Betal ... for appellants.

Mr. Pantu Deb Roy, Id. A.G.P.,
Mr. Pannalal Bandopadhyay for State.

Mr. Betal, learned advocate appears on behalf of appellants while Mr. Deb Roy, learned advocate, Additional Government Pleader appears on behalf of respondents. By consent, the appeal is taken up for hearing and disposal at this stage, dispensing with all formalities and on papers disclosed in the stay application. Mr. Deb Roy waives service of notice of appeal.

Mr. Betal submits, it would appear from face of impugned order dated 13th January, 2021 that a point not urged was the basis of dismissal of his clients' writ petition. He submits, employment notification dated 30th April, 2015 had invited applications from general public including retired Government employees (Indian citizens). Learned Judge erred in relying on communication dated 14th September, 2001, policy document. He relies on

judgment of Supreme Court in **R. S. Mittal - vs. - Union of India** reported in **(1995) Supp 2 SCC 230**, paragraph 10. Two sentences are reproduced below as sufficient for this case where there has been no decision taken regarding appellants.

“It is no doubt correct that a person on the select panel has no vested right to be appointed to the post for which he has been selected. He has a right to be considered for appointment.

Mr. Deb Roy submits, the panel has expired. As such in event recruitment is to be made, it has to be afresh.

The policy was formulated by Government of West Bengal, Judicial Department. In implementing the policy, employment notification called for applications from general public as well. As such implementation of policy cannot faulted because the maker of the policy and implementing agency are the same. What is important is, the department has not taken decision rejecting eligible candidacy of appellants. In the circumstances, we reverse impugned order.

It appears from letter dated 15th January, 2020 written by concerned District Judge to Joint Secretary, Government of West Bengal, Judicial Department that approval of the appointment of selected candidates in various posts of fast track Courts of Hooghly judgeship are to be made by the Department. Accordingly, respondent no.1 in the writ petition is directed to take a

decision on the appointments within four weeks from communication of this order.

The appeal and connected application are disposed of as above.

(Arindam Sinha, J.)

(Suvra Ghosh, J.)