

F.M.A. 1277 of 2016

**Gopal Chandra Bouri
Vs.
The State of West Bengal & Ors.**

Mr. S. N.Roy
Mr. G. Abedin
Mr. Rameshwar Sinha
... for the appellant

It is a brazen attempt on the part of the petitioner in pursuing a claim solely on the ground that he, being an ex-leprosy patient should have been sponsored under the exempted category and not as a scheduled caste candidate by the employment exchange. A shelter is sought to be taken under the provision of the Right of Persons with Disabilities Act, 2016 that even a person who is otherwise cured from the disease of leprosy, comes under the purview of the aforesaid Act. A further argument is advanced that the said Act provides a reservation of the seats for disabled persons and, therefore, the candidature of the petitioner ought to have been considered under the aforesaid category.

As indicated above, the pendency of the matter has created confusion in the mind of the petitioner as well as the persons representing him that there has been a blatant violation of the right accrued under the aforesaid Act and therefore, the candidature of the petitioner ought to have been considered under the exempted category being an ex-leprosy patient.

The single Bench in our opinion has rightly rejected the said writ petition taking into account the notices issued in the year 2002 and 2005 which does not imbibe such category of persons. The reason being that the Act of 2016 did not take birth in the year

2002 or prior to its coming in force. The Act which was promulgated 10 years after the initiation of the recruitment process cannot be applied with a retrospection operation and unsettled all the recruitment process which are otherwise in accordance with the statutory provision, the then prevalent. Neither the framers of the law nor the Act itself makes it to operate retrospectively and, therefore, the petitioner is misplaced with the aforesaid provisions of law and the conception that a right has been recognized and fructified under the Act of 2016. There is no infirmity and/or illegality on the part of the employment exchange in sponsoring the names of the candidates as scheduled caste candidate in the recruitment process initiated in the year 2006.

We, thus, do not find any merit in the instant appeal rather a frivolous litigation is brought to the Court causing wastage of time making the other litigants to wait for their turn to come.

The appeal being F.M.A. 1277 of 2016 is dismissed with costs assessed at Rs.25,000/- to be deposited by the State Legal Services Authority within two weeks from date.

In the event of such deposit, the SLSA shall keep the same in an account earmarked for juvenile.

Let this matter be listed after two weeks when the appellant shall produce the receipt showing the deposit with SLSA.

After the order is dictated in open Court, Mr. Roy prays for stay of the operation of the order.

Having considered the aforesaid submissions and the relevant facts, which emerged in course of the hearing, we do think that it is fit case where we should

stay the operation of the order. Hence the prayer of stay is refused.

Urgent photostat certified copy of this order, if applied for, be given to the appellant upon completion of requisite formalities within three days from the date of application

(Harish Tandon, J.)

(Rabindranath Samanta, J.)