

02.03.2021
rc/ct.no.10
Item No.03

WPA No. 4063 of 2021

Mr. Debasish Saha
Mr. Moniruzzaman
Mr. Sabyasachi Roy ...for the Petitioner

Mr. Pulak Ranjan Mondal
Mrs. Bandana Mondal
Mr. Subhrangsu Pandafor the WBCSC

Mr. Amal Kumar Sen
Mr. Munshi Mijanur Rahaman ...for the State

The grievance of the petitioner is directed towards the State-respondents not adhering with the mandatory provisions for reservation of Backward Classes in the field of education. The petitioner asserts that the State has not provided reservation seats for the Economically Weaker Sections (EWS). The challenge of the petitioner is directed towards an advertisement no. 1 of 2020 published on December 31, 2020. The petitioner asserts that such publication does not take into consideration the reservation for the EWS category and is arbitrary, whimsical, discriminatory and in violation of the Articles 15 and 16 of the Constitution of India.

The petitioner also relies on a Notification dated July 09, 2019 and submits that the State-respondents had expressed a desire that EWS category who are not covered under the existing scheme of reservation of the Schedule Caste and Schedule Tribe would be given preference in

civil posts and services in the State of West Bengal. The petitioner also contends that the policy of the State Government as spelt out in the Office Memorandum dated July 09, 2019 has not been given any effect to. In particular, the petitioner assails the advertisement no. 1 of 2020 which is published on December 31, 2020 and does not provide for reservation for EWS category in the eligibility criteria. The petitioner also relies on a Notification published on September 02, 2019 (appearing at page 66 in this writ petition) which provides for selection of EWS. The petitioner contends that the State is violating the policy for granting the reservation in their appointments. The petitioner also submits that even though the eligibility criteria in certain advertisements provided for reservation in the EWS category the State is not providing for any reservation in case of final appointment.

The State is represented.

It is submitted that the impugned advertisement being advertisement no. 1 of 2020 does not provide for any reservation for the EWS category in view of the policy decision of the College Service Commission on the basis of the relevant Government Order. As such, at this stage the State cannot be give any reservation to the EWS category. It is further submitted on behalf of the State that there is undue delay on the part of the petitioner in approaching this Court. The advertisement impugned was published as far back as December, 2020 and the last date for

submitting application is February 15, 2021. It is further submitted on behalf of the State that there is no scope of passing any interim order in favour of the petitioner at this stage. In fact, there has been undue and unexplained delay on the part of the petitioner and since this is policy decision, there is no scope for the Writ Court to interfere.

The College Service Commission is represented and submits that since the State Government does not provide for any reservation in respect of the EWS category with regard to this particular advertisement, there is very little scope for the College Service Commission to provide for such reservation in the impugned advertisement. It is also submitted on behalf of the College Service Commission that this is a policy matter and there is no scope for the College Service Commission to provide for such reservation in the absence of particular direction from the State Government.

I have heard the parties. I have also considered the submission made on their behalf.

The main grievance of the petitioner pertains to an advertisement being advertisement no. 1 of 2020 (appearing at page 78 of the writ petition) whereby the petitioner assails the recruitment process in respect of the particular advertisement on the ground that there is no reservation for the EWS category. The impugned advertisement was published on December 31, 2020 and the last date for submission the application was fixed on February 15, 2021. The petitioner submits that the date

for submission of applications has been extended till March 15, 2021. Such submission of the petitioner opposed by the Advocates appearing on behalf the State as also on behalf of the College Service Commission. In any event, I am of the view that the particular policy which the petitioner seeks enforcement of is a matter to be decided exclusively by the State. It is true that from this Memoranda dated July 09, 2019 and the advertisement dated September 02, 2019 reservation was given to the EWS category. However, such policy decision is not reflected in the impugned notification. Accordingly, I am of the view that the Writ Court does not have the jurisdiction to interfere with the policy decision of the State which ordinarily is in the State domain. In any event, in view of the delay on the part of the petitioner I am not inclined to interfere with the impugned advertisement no. 1 of 2020 and there is no scope of passing any order in favour of the petition.

Accordingly, WPA No. 4063 of 2021 stands dismissed without any order as to costs.

The petitioner is granted liberty to participate in the selection process in terms of the impugned advertisement no. 01 of 2020 in accordance with law, if so advised.

(Ravi Krishan Kapur,J)