

1 23.3.2021

gd/ssd

WPST 17 of 2021
(Through Video Conference)

Sahim Hossain & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Subir Sanyal,
Mr. Dibyendu Chatterjee,
Ms. Jhuma Chakraborty,
Ms. Reshmi Ghosh and
Ms. Piyali Paul,
Advocates present in court
..for the Petitioners

Mr. Susovan Sengupta and
Advocate present in court
..for the Respondent Nos.1 and 2.

Mr. Abhratosh Majumdar,
Additional Advocate General
Mr. Pradip Kumar Roy,
Md. T.M. Siddiqui and
Ms. Shraboni Sarkar
Advocates present in court
..for the Respondent Nos.3 to 5.

In terms of the stand taken by the learned counsel appearing for the Public Service Commission, the merit list as well as the final list of the selected candidates for the post of Sub-Inspector in the Subordinate Food and Supplies Service, Grade-III, in the Food and Supplies Department, has been uploaded on the website of the Commission.

At the time of argument, the learned counsel for the petitioners has sought to refer to a candidate at Serial No.29 in the unreserved category. The argument raised is that on the cut-off date for consideration of age of the

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candidates, he was more than 40 years of age and hence, not eligible for appointment under unreserved Category. He participated in the process of selection with relaxation of the age given to a reserved category candidates and hence, his name could not figure in the select list for unreserved category candidates.

The stand taken by the learned counsel for the official respondents is the relevant Act and the Rules, permit the same.

Be that as it may, we are not recording any finding on merit of the argument raised. However, this argument was raised by the learned counsel appearing for the petitioners after going through the merit list of the candidates uploaded on the website of the Commission. The issue has not been considered by the Tribunal.

Considering the aforesaid facts, while setting aside the impugned order dated February 18, 2021, declining interim relief to the petitioners, we deem it appropriate to remand back the matter to the Tribunal to consider all the arguments raised by the learned counsels for the parties afresh, in the light of the issues which have arisen after the merit list and select list have been uploaded on the website of the Commission.

The matter regarding interim relief be decided by

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the Tribunal on or before April 09, 2021.

In case the parties wish to supplement the pleadings already filed by them the same may be done immediately so that sufficient time is there for hearing and disposal of the prayer for interim relief.

Till the prayer for interim relief is decided by the Tribunal, the appointment of the selected candidates shall remain stayed.

The writ petition is disposed of accordingly.

(Rajesh Bindal, J.)

(Aniruddha Roy, J.)

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