

8 27.7.2021

gd/ssd

WPA(P)/211/2021
SUBRATA MONDAL
VS

THE STATE OF WEST BENGAL AND ORS.
(Through Video Conference)

Mr. Biswaroop Bhattacharyya,
Mr. Subhrangshu Panda and
Ms. Mithu Singha Mahapatra,
Advocates (Present in Court)
..for the Petitioner.

M/s. Kishore Datta,
Learned Advocate General,
Anirban Ray, Government Pleader,
Raja Saha and
Sayan Sinha, Advocates (Through VC)
..for the State.

Dr. S.K. Patra with
Ms. Supriya Dubey,
Advocates (Through VC)
..for the WBCSSC.

The present petition has been filed in public interest raising issue pertaining to the selection to the post of Upper Primary Teachers in the Education Department in the State. The prayer which the petitioner, who is not a candidate in the selection process, pressed at the time of hearing is that the application forms of candidates be uploaded on the website so as to enable the applicants to know about the marks obtained by each of the candidate in their educational qualifications. It will enable them to compare the marks awarded by the Commission on the basis thereof and if there is any error, the same can be pointed out at the time of challenge to the selection. It was further submitted that all these application forms

are available with the Commission and there should not be any reservation in uploading the same on the website.

The learned counsel for the petitioner further stated that the aforesaid selection process is subject matter of litigation before this Court. Initially, the learned Single Judge of this Court in WPA 10976 of 2021 had stayed the entire selection process. However, the aforesaid interim order was vacated vide order dated July 09, 2021. The same was challenged before the Division Bench of this Court by filing MAT 671 of 2021. The aforesaid appeal is still pending consideration before this Court. He had further submitted that the Division Bench had allowed the selection process to continue but appointments are not to be made without the leave of the Court.

On the other hand, Mr. Kishore Datta, learned Advocate General submitted that once litigation *inter se* the parties, namely, the candidates and the selecting agency is already pending in this Court, no public interest litigation raising some of the issues pertaining to that selection process should be entertained. Even if the prayers made in the present petition are considered, some of them are identical to the prayers made in the appeal filed against the order passed by the learned Single Judge, vacating stay on the appointments. Even otherwise a petition filed in public

interest pertaining to a service matter is not maintainable.

After hearing learned counsel for the parties, we find merit in the submissions made by the learned Advocate General. It is undisputed fact on record that there is litigation already pending in this court where some of the candidates have challenged the selection process. Whatever issues the candidates want to raise in those proceedings, they are at liberty to do so. Hence a petition filed by a person who is not even a candidate raising some of the issues with reference to the selection process cannot be entertained. No issues in a selection process can be decided piecemeal by invoking different forums, namely, by filing public interest litigation and the other one being raised by the candidates by filing writ petitions.

The present petition is, accordingly, dismissed as not maintainable. However, nothing said above shall affect the rights of the candidates in the petitions/appeals pending before this Court challenging the process of selection. They shall be at liberty to raise all the issues in those proceedings.

[Rajesh Bindal, C.J.(A)]

[Rajarshi Bharadwaj, J.]

