

10.11.2021
Court No.8
Item No.28
AP

MAT 1459 of 2019
With
CAN 1 of 2019 (Old No: CAN 10512 of 2019)
With
CAN 2 of 2020

Abdul Halim
Vs.
The State of West Bengal and Ors.
(Through Video Conference)

Mr. Md. Sarwar Jahan
Mr. Maidul Islam Kayal
... For the appellant/petitioner.

Mr. Shamim Ul Bari
... For the College Authority.

Mr. Rudranil De
Mr. Ziaul Haque
Mr. Himadri Kumar Mahata
... For the Respondent No.8.

The appeal and connected applications are treated as on day's list with the consent of the parties.

This intra-court appeal is directed against the order dated 21st August, 2019 at the instance of one of the candidates who participated in the selection process conducted by the authority of Lalgola College, district Murshidabad for filling up the post of Electrician-cum-Caretaker.

It appears that the selection process was conducted by the college authority comprising of written test and interview. The written test was conducted on 1st February, 2019 where the appellant/writ petitioner participated and subsequent thereto appellant/writ petitioner was permitted to participate in the interview which was held on 13th February, 2019.

The grievance voiced on behalf of the appellant/writ petitioner during the course of hearing of this appeal is that on 13th February, 2019 during the course of interview it was found that the selection committee/interview board was wrongly constituted. According to the appellant/writ petitioner five members were required to be present in selection committee/interview board. But on 13th February, 2019 instead of five members three members were present and they prepared the panel.

It is submitted on behalf of the appellant/writ petitioner that absence of two members in the selection committee/interview board vitiated the selection process and accordingly prayer has been made for cancellation of the entire selection process with a direction for initiation of de novo selection process by giving opportunity to the appellant/writ petitioner to participate in the said selection process.

The State respondents are not represented before us today. However, the college authority is represented by Mr. Shamim Ul Bari, learned advocate and the respondent No.8 being the selected candidate is represented by Mr. Rudranil De, learned advocate.

It is submitted on behalf of the authorities of Lalgola College that a panel was prepared on 13th February, 2019 based on the performance of the candidates who participated in the selection process. The panel was prepared on 13th February, 2019 and the

same was submitted before the Director of Public Instruction, West Bengal on 1st March, 2019. It is also submitted on behalf of the college authority that respondent No.8 stood first in the panel.

It has further been informed to this Court on behalf of the said college authority that although the panel was prepared and submitted before the Director of Public Instruction, West Bengal on 1st March, 2019 till date the same has not been approved in view of the pendency of the litigation before this Court resulting in pendency of the vacancy in the said post of Electrician-cum-Caretaker in the college in question.

We have considered the rival contentions of the parties to this appeal and also examined the relevant facts. It appears from the facts narrated before us during the course of hearing of the appeal that the appellant/writ petitioner duly participated in the written test on 1st February, 2019 and thereafter also took part in the interview held on 13th February, 2019 without any demur. Subsequently, the appellant did not raise any contemporaneous objection against the formation of the selection committee.

According to the appellant/writ petitioner there was defect in formation of the selection committee. Since the appellant/writ petitioner participated in the selection process without raising any objection and subsequently did not raise any contemporaneous representation before the concerned respondent

authorities specifically Director of Public Instruction, West Bengal questioning the formation of the selection committee, at this stage, we are not inclined to interfere with the selection process conducted by the authority of Lalgola College.

In this conspectus the appeal and connected application are dismissed and order of the learned Single Judge, which is under appeal dated 21st August, 2019 is affirmed.

Since the post of Electrician-cum-Caretaker is lying vacant in the college as a result whereof the college is suffering, leave is granted to the college authorities to approach the Director of Public Instruction, West Bengal afresh for taking decision on approval of the panel which was submitted on 1st March, 2019 within a period of fortnight from this date. If such approach is made on behalf of the said college authority Director of Public Instruction, West Bengal shall take final decision on the fate of the panel within a period of eight weeks thereafter.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Soumen Sen, J.)

(Saugata Bhattacharyya, J.)