

S/L 34
02.03.2022
Court. No. 19
GB

W.P.A. 496 of 2022

Sri Sudha Binshu Dutta
VS
The State of West Bengal & Ors.

Mr. Arunava Ghosh,
Mr. Bishnu Prosad Singha Roy.

...for the Petitioner.

Mr. Tapash K. Bhattacharya,
Mr. Aviroop Bhattacharya.

...for the Katwa Municipality.

Mr. S.P. Lahiri.

...for the State.

Affidavit-of-service filed in Court today be kept with
the record.

None appears on behalf of the State respondents
despite service.

Mr. Lahiri, who has been engaged in similar matters
and is ready with instructions, is requested by the Court to
enter appearance in this matter on behalf of the State
respondents. His appearance may be regularised.

The petitioner is aggrieved by the inaction of the
Katwa Municipality in not granting appointment to the
petitioner pursuant to a recruitment process initiated
sometime in 2019. The Municipality published an
advertisement in local newspapers inviting applications from
interested candidates for filling up 12 posts, upon obtaining
prior sanction and approval from the State Government. The
recruitment process was initiated and a panel of selected
candidates was prepared. The petitioner was selected. The
said panel was forwarded to the Director of Local Bodies,

Government of West Bengal by the Municipality. Thereafter, no actions have been taken by the Director of Local Bodies, Government of West Bengal. Hence, the writ petition.

Mr. Lahiri, learned advocate appearing on behalf of the State respondents has submitted documents to show that the finance department by way of a policy has kept in abeyance all appointments in all establishments in the State of West Bengal. Such decision was taken as an emergent measure in order to mobilise funds to control the rise in the COVID-19 pandemic. The decision was taken in public interest, for public service and austerity measures have been imposed vide Finance Department's Memo No.1491-F(Y) dated April 2, 2020. The said austerity measures have been extended from time to time until further orders.

It appears that there is an embargo in the matter of recruitment and engagement of manpower. Except with the approval of the finance department, recruitments were put on hold.

According to Mr. Lahiri, permission was granted to Katwa municipality, to fill up 12 posts in accordance with the request and requirement of the municipality. Mr. Lahiri does not deny that a selection committee was formed and the recruitment process was concluded. Mr. Lahiri further submits that in view of the embargo as mentioned hereinabove, the recruitment process has been kept in abeyance and unless the finance department and the Cabinet grant approval for appointment of the selected candidates, the prayer of the petitioner cannot be allowed.

Mr. Bhattacharya, learned advocate appearing on behalf of the Municipality submits that even as late as on August 19, 2021, the Director of Local Bodies, Government of West Bengal requested the Chairperson, Board of Administrators, Katwa Municipality to inform the date and cause of vacancy of each post, for necessary action. The Municipality intimated the vacancy position. Thus, according to Mr. Bhattacharya, the Government itself had enquired about the vacancy situation in the municipality which meant that the Government was aware of the situation and the difficulty the municipality has been facing in view of the existing vacancies. According to Mr. Bhattacharya, the said vacancies must be filled up and the approval from the Government must reach the municipality urgently.

Heard the learned advocates for the respective parties. This Court is conscious of the fact that a recruitment process initiated by an authority would not necessarily vest a legal right upon the selected candidates to be appointed. The State respondents have the choice not to fill up any post for valid reasons. However such decision has to be backed by a proper policy and cannot be *mala fide*. In this case, the Government has not expressed any opinion as to whether the process shall be cancelled. The process is still alive, but has been kept in abeyance in view of the financial crunch faced by the Government during the pandemic. The pandemic continued for two years and the Government had no other option, but to take some austere measures to prevent outflow of funds, so that health and other infrastructural facilities could be in

place, in order to combat the COVID-19 situation. Such policy of the Government has been placed before the Court. However, it is also true that the Government has been enquiring about the vacancy position in the Municipality. Such vacancy position has been intimated to the Government by the Municipality. A recruitment process was initiated with the approval of the Government. Thus, the Municipality and also the selected candidates, at least are entitled to know the fate of the selection process.

Under such circumstances, the Court directs that the respondent no.2 in consultation with the finance department will come to a decision and intimate the Katwa Municipality about the fate of the said selection process which was initiated upon permission granted by the Government sometime on November 7, 2019. Such intimation shall reach the municipality within a period of two months from the date of communication of this order. The municipality shall intimate the selected candidates about the decision of the Government. The Government will categorically indicate in the decision as to whether the said policy has been followed with regard to similar recruitment drives initiated after 2019 in other establishments and departments.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocates' communication.

(Shampa Sarkar, J.)