

S/L 5
24.02.2022
Court. No. 19
GB

W.P.A. 1792 of 2020

Moududi Sk.
VS
The State of West Bengal & Ors.

*Mr. Anjan Bhattacharya,
Md. Kutubuddin.*

...for the Petitioner.

*Mr. Sudipto Panda,
Mr. Subrata Ghosh.*

...for the State.

*Mr. Usaf Ali Dewan,
Mr. Asif Dewan.*

...for the Respondent No.4.

The writ petition has been filed challenging an order passed by the Director of Local Bodies, West Bengal, which was served upon the petitioner with a forwarding letter dated November 29, 2019. It appears that the petitioner's candidature for being appointed as 'Licence Inspector' in Jangipur Municipality, Murshidabad was not approved and the proposal of the Chairman, Jangipur Municipality was turned down. Though, the petitioner was successful in the selection process and was recommended for appointment by the Chairman to the post of 'Licence Inspector', which was an unreserved post, his appointment was not approved by the Director of Local Bodies, West Bengal.

The said order has been passed pursuant to a direction of this Court dated October 30, 2019. The petitioner had moved a writ petition being W.P.10652(W) of 2019 alleging that despite having been selected for the post of

‘Licence Inspector’ in the said Municipality, the Director of Local Bodies, West Bengal had not accorded approval to such selection, as a result of which, the petitioner was not being appointed to the post.

Mr. Panda, learned advocate appearing on behalf of the respondents submits that the post of ‘Licence Inspector’ was not sanctioned by the Government.

This Court disposed of the writ petition with a direction upon the petitioner to file a detailed representation before the Director of Local Bodies, West Bengal. On the basis of the representation the impugned order has been passed. The only reason assigned in the order impugned is that the post of ‘Licence Inspector’ in Jangipur Municipality is not an entitled one. First, this Court is unable to understand the meaning and purport of the expression ‘entitled one’. Secondly, had it not been a sanctioned post in that case, the authority ought to have given sufficient reasons based on the records while arriving at such finding.

On the contrary, Mr. Dewan, learned advocate appearing on behalf of the Municipality has handed up a communication from the Director of Local Bodies, West Bengal dated June 13, 2011, from which it appears that the post of ‘Licence Inspector’ had been sanctioned by the Government. Permission was also accorded for filling up seven sanctioned vacant posts as mentioned in Annexure-A thereof. The second post in Annexure-A was the post of ‘Licence Inspector’ and the number of post was mentioned as ‘1’. For convenience Annexure-A is quoted below:

“Annexure
A

Sl. No.	Name of the posts which are permitted to fill up	No. of post
1.	Night Guard	2
2.	Licence Inspector	1
3.	Clerk	1
4.	Peon	1
5.	Majdoor	2
	Total--	7 (Seven)”

It is also submitted by Mr. Dewan that the post still remains vacant. He further submits that no further communication was received from the Director of Local Bodies, West Bengal subsequent to the communication dated June 13, 2011 either withdrawing or cancelling the sanction granted for filling up the post of ‘Licence Inspector’. He submits that only after the recruitment was over, the proposals for appointments to the post of ‘Licence Inspector’ and ‘Night Guard’ were not approved.

There is serious discrepancy between the order impugned and the earlier communication received by the municipality, the Director of Local Bodies West Bengal, dated June 13, 2011. Thus, the order impugned and the submissions of Mr. Panda are contrary to what the records. Unless this a case in which the approval granted for filling up seven sanctioned vacant posts had been subsequently withdrawn or the selection process was found to be irregular, the finding of the state respondent does not appear to be reasonable.

In any event, the order impugned lacks justification. The order impugned is, thus, set aside with a direction upon the Director of Local Bodies, West Bengal to reconsider the

entire issue upon taking into consideration the communication dated June 13, 2011 in accordance with law.

For convenience, the relevant portion is quoted below:

“Sub: Filling up of 35(thirty-five) sanctioned vacant posts.

Ref: Letter No.4121/122/10JM dt.31.12.2010 and no.3921/122/10JM dt. 14.12.2010 of Jangipur Municipality.

With reference to above, the undersigned is directed to state that the Governor has been pleased to accord permission for filling up 7(seven) sanctioned vacant posts as mentioned at A in Annexure – A and also 28(twenty-eight) sanctioned vacant posts by way of re-designation as mentioned at B in the aforesaid annexure under Jangipur Municipality strictly in accordance with the provisions as laid down in the West Bengal Municipal Employees’ (Recruitment) Rules, 2005, since revised and other Govt. orders in respect of appointment.

Final proposal for obtaining prior approval for such appointment from the Govt. will have to be sent to this office under Sec.54(3) of the W.B.M. Act, 1993 since revised.

Director of Local Bodies, West Bengal
& Ex-Officio, Joint Secretary to the Govt.
of West Bengal.”

A reasoned order shall be passed and communicated to the parties. The petitioner shall be represented by a learned advocate. The petitioner, the representative of Jangipur Municipality and all other interested parties shall be heard.

The entire exercise shall be completed within a period of three months from the date of communication of this order

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

All parties are directed to act on the basis of a server copy of this order and/or the learned advocate's communication.

(Shampa Sarkar, J.)