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WPST 24 of 2020
(State of West Bengal & Ors. Vs. Tilok Chandra Mondal & Ors.)
with
WPST 22 of 2020
(State of West Bengal & Ors. Vs. Biplab Roy & Ors.)
with
WPST 23 of 2020
(State of West Bengal & Ors. Vs. Priyam Upadhyay & Ors.)
with
WPST 25 of 2020
(State of West Bengal & Ors. Vs. Apurba Lal Barman & Anr.)
with
WPST 26 of 2020
(State of West Bengal & Ors. Vs. Sanjib Dolui & Ors.)
with
WPST 27 of 2020
(State of West Bengal & Ors. Vs. Koushik Marjit & Ors.)

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..... for the Petitioners (WPST 27 of 2020)

Mr. Pradip Kumar Roy, Advocate
Mr. Joydeep Roy, Advocate
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Mr. Pratik Dhar, Senior Advocate
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..... for the Respondent (WPST 24 of 2020)

The aforesaid writ-petitions have been taken up together as the challenge is made to an judgment and order dated July 25, 2019 passed in several original applications filed by the respective applicants therein seeking similar and identical reliefs. In fact, the Tribunal also heard all such applications analogously and by the said common order, those were disposed of.

The issue pertains to filling up of the posts of Sub-Inspector within Food & Supply, Grade-III under the Department of Food and Supply, Government of West Bengal. The panel of successful candidates was duly published and the steps were taken to fill up 1131 posts as notified in the advertisement published for filling up the aforesaid posts. It is not in dispute that 892 candidates have been issued letters of appointment out of 1131 and were subsequently appointed to such posts. The dispute centres around 230 candidates though nominated for appointment but was kept in abeyance as the Department received several complaints relating to the discrepancies, anomalies and non-adherence to the norms and procedures required therefor.

One of the respondents herein filed an application being OA 1126 of 2017 before the Tribunal challenging the inaction on the part of the authorities in keeping such nomination/appointment in abeyance. The Tribunal while disposing of such application on February 19, 2018, directed the concerned authority to consider the recommendation of the names of the applicants for appointment to such posts and take a decision within 12 weeks from the date of communication of that order. In compliance to the said direction, the Principal Secretary, Department of Food and Supply, Government of West Bengal passed an order on May 15, 2010 disclosing that complaint was received by the West Bengal Staff Selection Commission pertaining to the genuineness of the candidates as well as the mode and quality of evaluation. The said order would reveal that the DIG (Operation) & CID, West Bengal also submitted a report to the Deputy Secretary to the Department of Food &

Supply, Government of West Bengal indicating that the enquiry so conducted manifestly reveals discrepancy in course of selection of the candidates in exempted categories and the same requires thorough investigation not only on the selection procedure but taking action against the appropriate authority by initiating the complaint.

Pursuant to such disclosure having made, First Information Report was lodged with the New Market Police Station on May 15, 2018. The said authority was of the view that the nature of allegation requires a deep investigation in order to unearth the truth as larger public interest is involved and further opined that till the time such investigation is complete, the nomination/ appointment of the candidates be kept in abeyance. However, suggestion was also given in the said decision that the Department must pursue the Investigating Authorities to complete the investigation at an earliest. Several applications came to be filed challenging the said order dated May 15, 2018 on the score that the moment, similarly circumstanced persons have been appointed, the applicants therein being the respondents in the aforesaid writ-petitions before this Court, cannot be discriminated and, therefore, mandatory order is required upon the authorities to give their appointments.

Amidst pendency of the Tribunal application, interim order was passed on November 29, 2018 in OA 472 of 2018 directing the appointments to be given to the applicants therein subject to the conditions incorporated therein. The writ-petitioner, the State of West Bengal, challenged the said interim order on the ground that the manner in which the same is passed

has virtually rendered the Tribunal application allowed.

The writ-petition being WPST 23 of 2020 was disposed of as the coordinate Bench of this Court was of the view that if the matter is finally disposed of, it would sub-serve the purpose. Though we do not find that the said interim order was interfered with and/or set aside but the fact remains that it was not implemented nor any attempt was made to implement it at the behest of the parties to the proceeding as they decided to proceed with the final hearing of the tribunal application.

By virtue of the impugned order the aforesaid applications have been disposed of with the categorical finding that despite FIR having lodged on May 15, 2018, there is no attempt having shown to complete the investigation rather the Tribunal found that there is no progress having made in the said investigation and, therefore, the fate of those applicants cannot be kept in lurch for indefinite period. Ultimately, direction was passed upon the authorities to appoint the applicants within ten weeks from the date of completion of the pre-appointment formalities and simultaneously, passed further direction upon the authority to complete the pre-appointment formalities within eight weeks from the date of presentation of the copy of the order.

The Tribunal was conscious of the fact that the investigation is yet to complete and, therefore, the direction was passed upon the enforcing authorities to carry out the investigation and there must be some alacrity to be shown in completing the same.

According to the learned Advocate General

appearing for the writ-petitioners herein, there has been lot of discrepancies and anomalies apart from some extraneous factors activated from behind the curtain are noticed, at least prima facie, and on the recommendation of the DIG (Operation) and CID, who made a preliminary enquiry, FIR was registered and till date the case has not received any final decision. However, he submits on instruction, he received in the midst of the hearing from the competent authority that charge-sheet has already been submitted in the said criminal case involving some of the high officials of the department and an application for sanction to prosecute them, was also taken out before the appropriate authority. The learned Advocate General candidly submits that permission as sought for to prosecute the high officials were subsequently rejected by providing the reasons.

In view of the stand taken by the State of West Bengal, it is apparent that though the criminal process had been activated but for want of sanction the prosecution is suspended and we do not find any ray of hope that it would reach its logical at an earliest. Even the affidavit filed before this Court does not disclose that all the applicants who have been found successful in exempted category are the beneficiaries of such discrepancies and/or anomalies as initially revealed by the CID.

It is really a sordid state of affairs that the Investigating Officer having found certain materials against the high officials, yet the sanction as sought for, was refused and/or rejected which impedes the progress in the criminal proceedings. Since the

nomination/appointment is kept in abeyance on a prima facie revelation of certain discrepancies and/or anomalies which has not fructified and/or culminated as yet, we do not find any justification in continuing with such decision. Furthermore, all the applicants were shown as successful in exempted category together with the other candidates who have been benefited with the appointment letters and actually appointed, the action of the authority to withhold the appointment of the 230 candidates shown in the list/panel of the successful candidates under exempted category is not acceptable nor sustainable.

We are not unmindful that any discrepancy, anomaly, non-adherence of the statutory provisions and/or extraneous factors having played in the recruitment process, the authorities responsible for the same should not get away therefrom but should be dealt with iron hands. It is really alarming that the charge-sheet reveal the involvement, at least prima facie of such high officials yet for the reasons best known to the concerned authority, the sanction for prosecution was rejected. Since the said order is not before us and we have been given to understand by the learned Advocate General that the rejection was accompanied with the reasons recorded therein, we do not intend to make any further comment thereupon.

We, therefore, do not find any grounds warranting interference with the order of the Tribunal impugned in the aforesaid writ-petitions and, therefore, the writ-petitions being **WPST 24 of 2020, WPST 22 of 2020, WPST 23 of 2020, WPST 25 of 2020, WPST 26 of 2020 and WPST 27 of 2020** are **dismissed**.

However, we extend the time stipulated in the impugned order to operate from date and it is expected that the concerned authorities would show alacrity in implementing and/or complying the direction of the Tribunal passed in the impugned order.

(Harish Tandon, J)

(Rabindranath Samanta, J)

