

14. 12.05.2022  
Ct. No.6  
Tanmoy

**M.A.T. 426 of 2022**

**The Director of Local Bodies, Government of  
West Bengal  
-Versus-  
Sri Ajit Kumar Ojha & Ors.**

**With  
IA No: C.A.N. 2 of 2022**

Mr. Subhrangsu Panda, Adv.,  
Ms. Mithu Singha Mahapatra, Adv.,  
Mr. J. Bhattacharya, Adv.

...for the appellant.

Mr. Debasish Das, Adv.

...for the respondent no.1/  
writ petitioner.

Mr. Jayanta Kumar Das, Adv.,  
Ms. Madhumanti Das, Adv.

...for the respondent no.3.

Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,  
Ms. Debdooti Dutta, Adv.

...for the State/  
respondent nos. 7 to 12.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

The writ petitioner/respondent participated in a process for selection of Assistant Tube Well Mistri (in short, 'ATWM') under the Egra Municipality. It appears that a panel was prepared and the writ petitioner was placed as No.1 candidate in that panel for ATWM. Being aggrieved by non-issuance of appointment letter, the writ petitioner approached the learned Single Judge. By the

impugned judgment and order dated June 26, 2019, the learned Judge issued a writ in the nature of *mandamus* in terms of prayer (a) of the writ petition for appointing the writ petitioner forthwith to the post of ATWM.

The appellant says that after the impugned judgment was passed, the appellant received a representation dated July 23, 2019, signed by several Councillors of Egra Municipality, to the effect that the ITI certificate that the writ petitioner submitted and which was essential for a candidate to submit, was a fake document. A letter dated August 26, 2019, to the same effect was written by the then Chairman of Egra Municipality to the appellant. This prompted the appellant to make enquiries. It appears from the Annexures to the stay petition that in response to a query raised by the appellant, the Deputy Director of Industrial Training in-Charge of ITI, Tollygunge, wrote a letter dated September 9, 2019 addressed to the appellant, which reads as follows:

*“In reference to your good office memo No. 1149/DLB/B-412/15-16 dt. 30.08.2019 on the above captioned subject, the following observations have been drawn at this end.*

- 1. After scrutiny it is observed that the name and particulars of the above trainee is not found in the C-Form (result sheet) of ITI, Tollygunge in the session August, 98 to July’99.*
- 2. It has also been observed that the rubber stamp on the un-attested photocopy of PNTC bearing sl.no.336 is not proper and seems to be fake.*

*In this context, you are also requested to kindly forward the attested photocopy of NTC in respect of Sri Ajit Ojha, s/o Atul Ojha to this end please to ascertain the genuineness of such certificate.*

*Your early action in this regard is solicited.”*

The appellant says that since it appears that the certificate submitted by the writ petitioner is a forged document, the order under appeal should be interfered with. A contempt application filed by the writ petitioner is pending before the learned Single Judge.

We are of the view that whatever the appellant has to say, should be said before the learned Single Judge. The facts that the appellant is seeking to place before us, were not there before the learned Single Judge. The letters which have been annexed to the stay petition in support of the appellant's contention that the writ petitioner's certificate is fake, all came into existence after the learned Judge pronounced the impugned judgment. There was no occasion for the learned Single Judge to consider such letters. It would not be proper to interfere with the judgment on the basis of documents, which were not in existence prior to the learned Judge passing the impugned judgment.

Accordingly, we dispose of this appeal being M.A.T. 426 of 2022 and the connected application being IA No: C.A.N. 2 of 2022, without interfering with the impugned judgment but by requesting the learned Single Judge to re-hear the writ petition in view of the documents that

have come into existence subsequent to pronouncement of judgement by the learned Single Judge. The appellant before us will be at liberty to file an affidavit before the learned Single Judge within four weeks from date bringing on record all relevant documents. Within a week thereafter, the writ petitioner may respond to such affidavit by filing an affidavit-in-reply. The learned Judge is requested to consider such affidavits and pass a fresh order, which will be in supersession of the judgment and order impugned before us. Till such time that a fresh order is passed on the writ petition, the order impugned in this appeal shall be kept in abeyance. We also request the learned Judge to defer hearing of the contempt application till the writ petition is decided afresh.

Let urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

**(Kausik Chanda, J.)**

**(Arijit Banerjee, J.)**