

D/L
Item No. 7
Wt 8 & 9
18.02.2022
KOLE

**FMA 800 of 2021
With
IA No. CAN 1 of 2021**

**Pronab Mandal & Ors.
-Vs.-
The State of West Bengal & Ors.**

**With
FMA 801 of 2021
With
CAN 1 of 2021**

**Sadikul Islam & Ors.
-Vs.-
The State West Bengal & Ors.**

**With
MAT 375 of 2021
With
CAN 1 of 2021**

**Sahid Aktar & Ors.
-Vs.-
The State of West Bengal & Ors.**

*Mr. K. Basu,
Mr. S. Mitter,
Mr. B. Kr. Dey,
Mr. P. Pandey*

...for the appellants.

*Mr. P. Deb Roy,
Mr. S. Guha Biswas,*

...for the State.

*Mr. A. Ghosh,
Mr. A. Dey,*

...for the KMC.

By consent of the parties the appeals and the applications are taken up for hearing together.

This appeal is directed against an order dated February 22, 2021 whereby WPA 1042 of 2021 was dismissed.

The writ petitioners participated in the process of recruitment of 'Conservancy Mazdoor' in 885 vacancies under the Kolkata Municipal Corporation. They were unsuccessful. Thereafter, they filed a writ petition challenging the advertisement that was issued by the West Bengal Municipal Service Commission pursuant to which the recruitment process was conducted. The grievance of the writ petitioners was that the advertisement does not make space for exempted category candidates like the writ petitioners.

It was submitted on behalf of the Kolkata Municipal Corporation before the learned Single Judge that there are in all 1223 number of vacancies in the post of 'Conservancy Mazdoor' under KMC out of which applications have been invited for only 858 vacancies, comprising 70 per cent of the total number of vacancies. The remaining 30 per cent is reserved for candidates from the exempted category. The West Bengal Municipal Service Commission has no authority to conduct recruitment process in respect of those 30 per cent vacancies.

The learned Judge held that since the writ petitioners claimed to be belonging to exempted category candidates, they should not be aggrieved by the advertisement which was published for recruitment of candidates belonging to other categories. The learned Judge also observed that the writ petitioners can put forward their claim as and when recruitment of candidates belonging to exempted category will be taken up by KMC.

Appearing for the writ petitioners/appellants Mr. Basu, learned Advocate, submits that although the learned Single Judge recognized the right of the writ petitioners, nothing was said in the order as to how that right would be given effect to. He further submits that other Municipalities like Naihati Municipality, Barahnagar Municipality and South Dumdum Municipality have duly considered the exempted category candidates while conducting the process of recruitment to the posts of 'Conservancy Mazdoor'.

We have heard learned Counsel for the parties. The writ petitioners had approached this Court challenging the recruitment notification. Obviously, such challenge did not succeed. Having participated in the recruitment process and having been unsuccessful, they cannot be permitted to challenge the process now. They say that when they approached the learned Single Judge, the result of the recruitment process had not been published. In our opinion, that would make little difference. In all probability, they anticipated that they would be unsuccessful and hence tried to challenge the recruitment process.

We find no reason to interfere with the order under appeal. However, as and when the competent authority undertakes the process of recruitment from the exempted category for filling up the remaining vacancies in the post of 'Conservancy Mazdoor' in accordance with law, the writ petitioners/appellants will definitely have the opportunity of participating in such process. There is no reason for the writ petitioners/appellants to anticipate that the interest of the

exempted category candidates will not be considered by the competent authority. In our view, the apprehension of the writ petitioners is premature and speculative. If occasion rises where they have genuine cause of grievance, they will be entitled to approach the appropriate forum for redressal of such grievance in accordance with law.

With the aforesaid observations, the appeals and the connected applications are disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Kausik Chanda, J.)