

05.01.2022

Court : 04
Item : 25
Matter : MAT
Status : OP
Transcriber: nandy

**MAT 452 of 2021
with
CAN 1 of 2021**

**Nitish Kumar Biswas
Vs.
The State of West Bengal & Ors.**

**Mr. Srijib Chakraborty, Advocate
Mr. Sunny Nandy, Advocate
Mr. Subha Pathak, Advocate**

.....for the Appellant

**Mr. Abhratosh Majumdar, Senior Advocate
Mr. Suryaneel Das, Advocate**

.....for the Respondent Nos. 11 & 12

**Mr. Swapan Kumar Dutta, Senior Advocate
Ms. Debjani Mitra, Advocate**

.....for the State

**Mr. Amitava Chaudhuri, Advocate
Ms. Monoleena Chaudhuri, Advocate
Mr. N. Roy, Advocate**

.....for the Kalyani University

**Mr. Subhrangsu Panda, Advocate
Mr. Anindya Sundar Chatterjee, Advocate**

.....for the College Service Commission

Challenging the advertisement dated December 28, 2018 inviting application for filling up the posts of non-teaching staff, the writ-petition was filed taking multiple grounds including the one that the Selection Committee, so constituted, is not in conformity with the Rules or the norms applicable therefor. The writ-petitioner/appellant has gone to the extent that the said Selection Committee was constituted after the advertisement and further exercise has already been undertaken which is impermissible in law.

Before the single Bench the said point was

agitated and it was felt that the respondent authorities should disclose their stand by way of an affidavit.

Initially, we were surprised when the aforesaid innocuous order was challenged in the instant appeal, more particularly, when the rights of the parties were not determined finally. But the coordinate Bench on November 15, 2021 directed the college authorities to disclose the facts whether they were continuing with the selection process or not.

The affidavit affirmed by the respondent no. 12 who is also a teacher-in-charge of the respondent no. 11, has been filed in terms of the said order wherein it is indicated that subsequent to the said advertisement and the exercises so undertaken, the authority found that there has been a serious lapses and/or irregularities in the said process and decided to scrap the same, which in fact, has been done. It is further disclosed that the said respondent has approached the appropriate authority seeking permission to initiate fresh recruitment process to fill up the posts and the moment the permission is received, the process shall be initiated.

In view of the fact that the recruitment process on the basis of the said advertisement has been cancelled and/or abandoned by the

Recruiting Authority itself, there is no surviving cause of action. In view of the above, there is no point in keeping the appeal pending in the docket of this Court as the same has become infructuous the moment the subsequent events happened in course of the proceedings is disclosed before us by way of an affidavit.

Accordingly, the appeal being **MAT 452 of 2021** and the connected application being **CAN 1 of 2021** are **disposed of**.

In view of the disposal of the appeal, the writ-petition being **WPA 4572 of 2021** is also **disposed of** as infructuous.

Office is directed not to show the writ-petition pending in the docket of this Court in view of the order passed in this appeal.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

