

02. 04.05.2022
Ct. No.06
Tanmoy

M.A.T. 346 of 2014

**Tapas Kumar Mukhopadhyay
-Versus-
The State of West Bengal & Ors.**

**With
IA No: C.A.N. 1 of 2014 (Old No: C.A.N. 3633 of 2014)
With
IA No: C.A.N. 2 of 2016 (Old No: C.A.N. 1801 of 2016)**

Mr. Tanmay Chowdhury, Adv.,
Ms. Ritoprita Ghosh, Adv.

...for the appellant.

Mr. Pantu Deb Roy, Adv.,
Mr. Subrata Guha Biswas, Adv.

...for the State.

In Re: IA No: C.A.N. 2 of 2016 (Old No: C.A.N. 1801 of 2016) in M.A.T. 346 of 2014.

This is an application for condonation of delay of four days in filing the appeal. Causes shown being sufficient, the delay is condoned.

The application being IA No: C.A.N. 2 of 2016 (Old No: C.A.N. 1801 of 2016) in M.A.T. 346 of 2014 is accordingly disposed of.

**In Re: IA No: C.A.N. 1 of 2014 (Old No: C.A.N. 3633 of 2014)
With
M.A.T. 346 of 2014.**

Affidavit of service filed in Court today be kept with the records.

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

This appeal is directed against a judgment and order dated January 20, 2014 whereby W.P. 6783 (W) of 2010 was dismissed.

The writ petitioner had participated in a process for selection of *Gram Panchayat Karmee* for Kuchiakole *Gram Panchayat* (in short, “the said *Panchayat*”). The process was conducted in 2002/2003. The written test was held on December 27, 2002. The *viva-voce* was held on February 11, 2003. The writ petitioner was unsuccessful. He then challenged the selection process.

His primary allegation before the learned Single Judge was that the respondent no.13 who was the unsuccessful candidate, was the husband of the *Ex-Anchal Pradhan* who was present at the oral interview and influenced the members of the interview board to award more marks to her husband.

The learned Judge considered the affidavits filed by the parties. The concerned Block Development Officer had filed an affidavit before the learned Single Judge disclosing the mark-sheet. The mark-sheet showed that the private respondent no.13 had obtained the highest mark. The learned Judge, therefore, observed that there was nothing wrong about the respondent no.13 being

selected. The learned Judge also observed that the writ petitioner had approached the Court after a delay of about eight years. Delay defeats equity. This is a Court of equitable jurisdiction. Further, having participated in the selection process, normally a candidate is not allowed to challenge the process.

Before us also, the writ petitioner/appellant argued that the respondent no.13 secured appointment by exerting political influence through his wife. However, from the records we do not find anything that would substantiate the allegation of the appellant. We are also in agreement with the learned Single Judge that the writ petitioner approached the Court after inordinate delay and there is no sufficient or acceptable explanation for such delay. The private respondent has been working in the post in question for about eighteen years. The prevailing position ought not to be disturbed unless compelling grounds are made out. No such grounds have been made out in the present case by the appellant.

We see no infirmity in the order under challenge. The appeal being M.A.T. 346 of 2014 and the connected application being IA No: C.A.N. 1 of 2014 (Old No: C.A.N. 3633 of 2014) are accordingly disposed of.

However, there will be no order as to costs.

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.)