

24.06.2022.
Item No.34.
B.R.

W.P.A. 14238 of 2021

**Goutam Pal
Versus
State of West Bengal & Ors.**

Mr. Raghunath Chakraborty,
Ms. Amrita Dey

...For the petitioner.

Mr. Swapan Kumar Datta, Sr. Adv.
Mr. T.K. Dey

...For the State

Mr. Amitava Chaudhuri,
Mr. N. Roy

... For the respondent nos. 4 and 5

This is an utterly misconceived writ
petition.

Petitioner has prayed for writ in the nature
of quo warranto for removal of respondent nos.4
and 5 from the post of Additional Director of
Technical Education and Joint Director of
Technical Education, respectively under Higher
Education Department, Technical Branch, West
Bengal.

Insofar as respondent no.4 is concerned,
this writ petition has become infructuous for he
superannuated on April 30, 2022. Though it has
been submitted by the learned advocate for the
petitioner that by an order dated May 20, 2022,
respondent no.4 has been reappointed as Officer
on Special Duty (Administration) in West Bengal
Council of Higher Education for a period of one

year, I am of the view that at this juncture, a writ in the nature of quo warranto cannot be issued against a post which respondent no.4 is holding no more.

Respondent no.5 was appointed as an Assistant Director, by an order dated February 17, 2006, and thereafter she was promoted to the post of Deputy Director by a subsequent Government order dated June 15, 2009. Subsequently, she became a Joint Director by a Government order dated August 1, 2018.

The petitioner suggests that respondent no.5 had no requisite qualification to be promoted as Deputy Director since she did not have the required working experience. By referring to a Government Notification dated May 14, 1998, whereby the method and qualification required for the recruitment to the post of Director, Technical Education and other categories were prescribed, the petitioner suggests that in terms of Clause 4 of the said notification one can be promoted to the post of Deputy Director from Assistant Director only when he has five years experience in service. It is the case of the petitioner that respondent no.5 did not have the requisite five years experience at that relevant point of time and as such, she

was not fit to be promoted as Deputy Director. It is further argued that since she was not fit to be promoted as a Deputy Director, her subsequent promotion as a Joint Director was also illegal and therefore, she should be removed from the said post of Joint Director by a writ in nature of quo warranto.

Respondent no.5 has filed an affidavit-in-opposition to the writ petition. It appears that by an order dated July 4, 2007, the Government decided to count the previous service of respondent no.5 as a lecturer in Architecture, at Women Polytechnic at Chandernagore for the period from January 1, 2001, to February 24, 2004, and the service as Assistant Director of Technical Education and Training under Department of Technical Education towards the service benefits. By virtue of the said Government order respondent no.5, no doubt, had the required service experience to be promoted to the post of Deputy Director.

The petitioner did not challenge the appointment of respondent no.5 when she was promoted as Deputy Director in the year 2009. The petitioner filed this writ petition in the year 2021 when respondent no.5 was holding the post of Joint Director. The petitioner cannot be

allowed to challenge the said appointments at this belated stage. In any event, it has already been found that respondent no.5 has had the required qualification and experience for the post of Joint Director.

Though the petitioner seeks to justify the filing of this writ petition by referring to an RTI application dated July 31, 2012, seeking some information relating to the appointments of respondents no.4 and 5, to appreciate the real motive behind this vexatious and utterly misconceived writ petition, it is necessary to understand the factual backdrop in which this writ petition has been filed.

The petitioner was appointed as a lecturer in Mathematics at RCC Institute of Information and Technology, Kolkata. The petitioner was facing a disciplinary proceeding wherein he was charged, *inter alia*, with insubordination. He was suspended on June 30, 2011, and the disciplinary proceeding resulted in dismissal of the petitioner. He challenged the order of dismissal by filing a writ petition which was set aside by a Single Judge of this Court by a judgment and order dated November 3, 2019. An appeal was preferred by the College challenging the said order. Ultimately the said appeal was

disposed of on April 5, 2020, by a Division Bench of this Court with a direction to complete the enquiry proceedings within four months from the date of judgment.

Respondent no.5 came into the picture only in the year 2019 when the Board of Management of RCC Institute of Information and Technology was reconstituted and she was inducted as a member of the said committee in her capacity as a Joint Director of Technical Education. It may also be pointed out that respondent no.4 was appointed as Chairman of the said Board of Members on February 26, 2020, being the Additional Director.

The petitioner thereafter approached this Court in the year 2021 by filing this writ petition seeking the removal of respondent nos.4 and 5 by issuance of a writ in the nature of *quo warranto* questioning their eligibility to hold the said posts.

It is, therefore, clear that the actual motive behind filing this writ petition was to thwart the disciplinary proceeding initiated against the petitioner. The present writ petition is, no doubt, sheer abuse of process of law.

Accordingly, WPA No. 14238 of 2021 is dismissed. However, there will be no order as to costs.

Parties are directed to act on the server copy of this order.

(*Kausik Chanda, J.*)