

03.11.2022

Item No.176

Crt. No.11.

KB

MAT 1053 of 2022
with
IA No. CAN 1 of 2022

The West Bengal College Service Commission and Ors.
Versus
Santanu Basu

Mr. Kishore Datta
Mr. Subhrangsu Panda
Ms. Ina Bhattacharyya
Ms. Mithu Singha Mahapatra
.... For the Appellants.

Mr. Subrata Mukhopadhyay
Mr. Subhajit Das
.... For the Respondent.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Mr. Panda, Learned Counsel appears for the appellants/West Bengal College Service Commission (for short the Commission), led by Mr. Kishore Datta, Learned Senior Counsel.

For the Respondent/Writ Petitioner, Mr. Mukhopadhyay, Learned Counsel, appears.

The challenge in this appeal is to the Order of the Hon'ble Single Bench dated 23rd June, 2022 in the Writ Petition, being WPA 4693 of 2020, with its connected application.

The Hon'ble Single Bench was considering a challenge to the procedure for recruitment of Librarians

in different State Government aided Colleges by the Commission in terms of an advertisement published to such effect.

The Writ Petitioner was aggrieved by the fact that the selection process lacked transparency and since the appointments relate to a public office, the onus is upon the Commission, which is 'State' within the meaning of Article 12 of the Constitution of India, to act without blemish.

Being *prima facie* satisfied with the stand taken by the Writ Petitioner, the Hon'ble Single Bench framed six questions to be answered in the form of a Report on Affidavit by the Commission on the next date.

The six questions relate to the disclosure of the process and allotment of marks by the Commission while conducting the recruitment exercise. Details of the six questions appear more fully in the Order of the Hon'ble Single Bench dated 23rd June, 2022.

Mr. Panda, Learned Counsel, raises the argument that under the Rules of the Commission there is no provision for disclosure of particulars as directed by the Hon'ble Single Bench.

It is submitted on the strength of the Judgement *In Re: Angesh Kumar and Others* reported in (2018) 4 SCC Page 530 that a third party such as the Writ Petitioner does not have an automatic right to claim information.

It is submitted that unless and until sufficient cause is made out in public interest, *In Re: Angesh Kumar & Ors.* stipulates that disclosure of all information such as raw marks - in that case by UPSC - is not obligatory on the part of the Recruiting Authority.

Mr. Mukhopadhyay, Learned Counsel, reiterates the points already taken in the Writ Petition and recorded by the Hon'ble Single Bench of lack of transparency in a recruitment for appointment to a public office.

Having closely heard the parties and considering the materials placed, this Court finds that the argument *In Re: Angesh Kumar* fails to appreciably apply in the facts of this case, considering the fact that the requirement of disclosure is by the Court itself in exercise of its extraordinary inherent jurisdiction and in course of a hearing on a related issue of appointments to public office.

In the considered view of this Court, irrespective of any lack of compulsion to disclose under the RTI Act *qua* a private party, as legally provided, the Hon'ble Court does not suffer from the same limitations in exercise of its plenary jurisdiction.

Accordingly, the Report on Affidavit shall be produced before the Hon'ble Single Bench initially in sealed cover. The Hon'ble Single Bench shall then decide

on the issue of circulation of the said Report keeping in view the ends of complete adjudication.

In the light of the above observations and directions, both **MAT 1053 of 2022** with **IA No. CAN 1 of 2022** stand **disposed of**.

Since affidavits are not invited, all other allegations are deemed to be denied and disputed.

All parties to act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Supratim Bhattacharya, J.) (Subrata Talukdar, J.)