

01-08-2022
ct no. 13
Sl. 1
sp

WPA 14148 of 2009

Sri Uttam Mondal

-Versus-

State of West Bengal & Ors.

Mr. Lalratan Mandal

.....for the petitioner

Ms. Chaitali Bhattacharya,

Mr. Kartik Chandra Kapas

..for the State

The subject matter of the writ petition is the panel prepared for appointment the post of Assistant Teacher in Bio-Science in Saradish Roy Smriti Vidyaniketan, Birbhum.

The petitioner participated in the selection process and an interview was held on February 21, 1997. A panel was constituted with three persons. Litigation ensued at the instance of the first candidate Md. Khairul Anan and also the second candidate Tushar Kanti Mishra. The petitioner was not left far behind and filed the instant writ petition in the year 2009.

The decision taken in the process of preparing the panel is question. A number of writ petitions ensued and the matter reached a Division Bench of this Court. The inter se

seniority between the three candidates came to be questioned from time-to-time.

While the petitioner claims that the post is still vacant, Ms. Chaitali Bhattacharya, learned counsel appearing for the State submits on the basis of instructions that in the year 2018, Md. Khairul Anan has joined the post and is working, subject to the pending litigation.

It is submitted by the learned counsel for the petitioner that, all other legal proceedings have come to an end except for the instant one.

This Court notes that the writ petition was filed in the year 2009. Bias is alleged against the five members of the Selection Committee who constituted the panel. Even in the second round of interview held pursuant to order of this Court, the petitioner was allotted 'zero' marks for the second time as well. It is submitted that if the petitioner awarded .5 or $\frac{1}{2}$ marks, he would succeed in the selection process.

This Court sees that the litigation between the three candidates, may have either left the post being unfilled for such a long time leaving the students in the lurch.....or the appointed candidates' status remain in limbo. This cannot be accepted.

Although counsel for the petitioner submits that the writ petition was mentioned from time to time for listing from 2009, onwards no evidence is produced to that effect. In light of the given facts and with the passage of time, this Court is of the view that the claim of the petitioner may have become stale and infructuous.

The writ petition shall, therefore, stand disposed of with the following observations;

- a) If the post has already been filled up and the said Md. Khairul Anan is working, his appointment may be confirmed and approved by the office of the District Inspector of Schools (SE), Birbhum and the Board.
- b) If the post remained vacant, the School Service Commission shall, within a period of two weeks from the date of receipt of a copy of this order, appoint a teacher either by transfer or from any waiting list available, to teach Bio-Science in the aforesaid Saradish Roy Smriti Vidyaniketan, Birbhum.

There shall be no order as to costs.

The instructions of Ms. Chaitali Bhattacharya, received from the District Inspector of Schools (SE), Birbhum, is taken on record.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)