

14.09.2022
Sl. No.5(DL)
srm

W.P.A. No. 20303 of 2022

Dibakar Kundu

Vs.

The State of West Bengal & Ors.

Mr. Ashis Kumar Chowdhury,
Mrs. Sabnam Sultana,
Mr. Rajib Ghosh,
Mr. Rohan Paul

....for the Petitioner.

Mr. Sudipto Panda,
Mr. Sajal Pandit

...for the State-respondents.

Affidavit-of-service is taken on record.

The petitioner alleges denial of appointment to the post of Executive Assistant in the Uttar Dinajpur Zilla Parishad, Raigange. According to the petitioner, although the petitioner was certified to be a meritorious sports person by the Deputy Secretary to the Government of West Bengal, Department of Sports, the petitioner claims that the preference as per Clause 4 of the Notification of the Labour Department, Government of West Bengal dated April 4, 2011, had not been given.

The petitioner relies on a communication from the Deputy Secretary to the Government of West Bengal, Department of Sports to the Director of Employment,

Kolkata dated July 29, 2016. According to the petitioner, the recruitment process was conducted by the Chairman, District Level Selection Committee, Uttar Dinajpur. The petitioner was called for the written test and also viva voce. Ultimately, the name of the petitioner was not empanelled in the final list. It appears from the record that the Deputy Secretary to the Government of West Bengal, Department of Sports, wrote to the Director of employment, Kolkata for inclusion of the name of the petitioner as a meritorious sports person/exempted category. The petitioner has relied on a certificate of participation.

However, whether the process included that exemptions or preference would be given in the selection process to sports persons or whether the petitioner satisfied the requirements under Clause 4 of the Notification of 2011 are matters, which cannot be looked into by this Court. The allegation of the petitioner is that preference was not given to the petitioner, although the petitioner was a meritorious sports person. This is a disputed question of fact.

The petitioner also approached the authority under the Right to Information Act for necessary information. The petitioner was denied the answers on the ground that

the final merit list and merit position had not been finally approved.

The petitioner once again made a query under the Right to Information Act before the State Public Information Officer (SPIO), Department of Panchayat and Rural Development, West Bengal. The petitioner was informed that four persons had participated in the selection process under the meritorious sports person category. The query of the petitioner, as to how the eligibility of the meritorious sports person was assessed by the District Level Selection Committee, was not answered. The marks obtained by the petitioner being 31.756, was provided, but the marks of the last appointed candidate, who had applied under the meritorious sports person category, was not informed.

The petitioner approached the appellate authority with his queries. The appellate authority directed that the queries of the petitioner along with the documents be sent to the District Magistrate, Uttar Dinajpur, & Executive Vice-Chairman, District Level Selection Committee for disposal. Accordingly, the petitioner thereafter made a representation before the District Magistrate, Uttar Dinajpur dated July 21, 2022 with his allegations and also pointed out the alleged flaw in the assessment process. The

said representation of the petitioner has not yet been disposed of.

Under such circumstances, the writ petition is disposed of with a direction upon the District Magistrate, Uttar Dinajpur to consider the allegations made by the petitioner, upon hearing the petitioner and pass a reasoned order. It is made clear that the lowest marks obtained by a selected candidate who had filled in the form under the meritorious sports person category, shall be indicated and disclosed to the petitioner. If the District Magistrate finds any flaws in the process, then remedial measures shall be taken in accordance with law. If it is found that the allegations of the petitioner are not correct, and the selected candidates had performed better than the petitioner or had more achievements than the petitioner as meritorious sports person, in that case, necessary reasons shall be provided in the reasoned order.

The entire exercise shall be completed within a period of ten weeks from the date of communication of this order. A copy of the writ petition and this order be served upon the District Magistrate, Uttar Dinajpur, for necessary compliance.

This Court has not decided the issue on merits and this order shall not be construed as a recognition of the right of the petitioner for appointment.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)