

Court No. 22
21.9.2022
(Item No. 15)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 20950 of 2022

Debabrata Biswas
VS
The State of West Bengal & Ors.

Mr. Nilanjan Bhattacharjee
Mr. Arpan Guha
..... for the petitioner
Mr. Swapan Kumar Datta
Mr. Rajat Dutta
..... for the State

Two affidavits of service filed in Court today, is taken on record.

This writ petition assails the impugned decision/order dated September 5, 2022, **Annexure P-14** to the writ petition passed by the second respondent.

The petitioner is an **Assistant Professor** in the department of **Physics at Bankura University**. The petitioner applied for joining at the University of Burdwan. The petitioner applied before the second respondent for obtaining the necessary “No Objection Certificate” in this regard. Such “No Objection Certificate” was withheld without any reason showing to the petitioner. The petitioner then filed a previous writ petition being **W.P.A. 17540 of 2022**, a co-ordinate Bench disposed of the same by its order dated August 26, 2022, **Annexure P-13** to the writ petition, on the basis of the submissions made on behalf of Bankura University that the University was

in the process of considering the prayer of the petitioner. Finally the impugned decision dated September 5, 2022, **Annexure P-14** to the writ petition, was communicated to the petitioner.

Mr. Nilanjan Bhattacharjee, learned counsel appearing for the writ petitioner submits that, there is a great urgency involved in this matter. He received instruction from his client that, any time after October 11, 2022 the Burdwan University would announce the date for interview. He further submits that, to participate in this interview he would be required to furnish the necessary “No Objection Certificate” obtained from the Bankura University or else the career of the petitioner might suffer prejudice. He further submits that, in terms of provisions laid down under the Bankura University Act, 2013 amended from time to time, the Bankura University is obliged to provide the necessary lien to the petitioner in the facts of this case.

Mr. Sarbananda Sanyal, learned counsel appearing for the Bankura University submitted that the prayer for granting “No Objection Certificate” to the petitioner as was made by the petitioner was duly rejected by the Bankura University after considering all the materials on record, as would be evident from the said impugned order dated September 5, 2022. He submitted that, the petitioner is no way eligible to obtain the “No Objection Certificate”, more so for the

reason that in the event, the petitioner is allowed to obtain “No Objection Certificate” and join Burdwan University, there will be a dearth of Teachers strength in the faculty of Physics in the University of Bankura. Hence, he submitted that the writ petition should be dismissed.

He further submitted that, the rule related to grant of lien by the Bankura University is always subject to sole discretion of the University and the University after considering the relevant circumstance should consider to grant lien.

Mr. Swapan Kumar Datta, learned senior counsel is present.

Considering the rival contentions urged before this Court on behalf of the appearing parties and considering the materials on record and on a close scrutiny of the impugned order dated September 5, 2022, **Annexure P-14** to the writ petition, this Court is of the considered view that, the said impugned order is cryptic by nature and devoid of any reason whatsoever. The order did not even spell out whatever the circumstances and reasons for which “No Objection Certificate” should not be issued in favour of the petitioner in the facts of this case.

This Court in exercise of its high prerogative writ jurisdiction in a judicial review has a limited authority to assess the impugned order. This Court

will only examine the decision making process of the authority in passing the said impugned order.

It is elementary that an authority who is entrusted to decide an issue shall decide the same with reasons so that the person whose representation was to be considered must know the reasons for his defeat or success in the hearing.

In view of absence of any reason and discussion on the issue in the said **impugned order dated September 5, 2022, Annexure P-14 to the writ petition, the same stands set aside and quashed.**

However, the respondent No. 2 is directed to revisit the issue on the basis of the records existing before him and after giving the petitioner an opportunity of hearing and then to pass its detailed reasoned order on the issue.

Considering the urgency involved in this matter as discussed above, the respondent No. 2 is directed to complete the hearing process and come to its reasonable conclusion with a reasoned order at the earliest. **As agreed by and between the petitioner and the Bankura University represented before this Court, the respondent No. 2 shall give a hearing to the petitioner in the manner as directed above on September 27, 2022 at 1.00 noon at its office** and then shall pass its detailed reasoned order on the issue.

The respondent No. 2 shall communicate the said reasoned order to the petitioner **on or before September 30, 2022 positively.**

In the event, the reasoned decision goes in favour of the petitioner, then the respondent Nos. 2 and 3 shall forthwith give effect to the said reasoned decision positively within 48 working hours from the date of communication of the said reasoned order to the petitioner considering the urgency involved in the matter.

It is made clear that, this Court has not gone into the merit of the claim of the writ petitioner in any manner. All points available to the writ petitioner may be raised before the respondent No. 2 in course of the hearing.

Since affidavits are not called for the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition being **WPA 20950 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)