

325. 17.08.2022
BD Ct.15

W.P.A. 8272 of 2020

Shyamal Rana & Ors.

-vs-

State of West Bengal & Ors.

Ms. Santi Das

... for the petitioners.

In this writ petition petitioners have assailed the order of Director of Local Bodies dated 19th March, 2020 whereby the Director spurned the claim of the petitioners for granting post facto approval based on their appointments made by the Chairman, Baidyabati Municipality in the year 2000. Petitioners are aggrieved by such decision of the Director of Local Bodies being the respondent no. 2. On perusal of such decision of the respondent no. 2 it appears that the said respondent refused to accept the claim of the petitioners on two grounds i.e. the order dated 7th May, 2009 being No. 207/MA/O/C-4/1A-7/2000 is not applicable while deciding the case of the petitioners and on behalf of the Baidyabati Municipality it was submitted before the respondent no. 2 that the petitioners were appointed not against the sanctioned posts at the time of absorption by the Board of Councillors vide resolutions dated 27th March, 2000 and 6th March, 2000 and based on aforesaid consideration the respondent no. 2 rejected the case of the petitioners.

Today matter is heard in presence of the learned advocate representing the petitioners.

However, no one is representing the Baidyabati Municipality and the State respondents including respondent no. 2 nor any affidavit-in-opposition has been filed by the respondents.

It has been brought to the notice of this Court by the learned advocate of the petitioners that the petitioners were appointed in the year 2000 by the Chairman, Baidyabati Municipality and were placed on regular scale of pay pursuant to the resolution dated 3rd March, 2000 adopted by the said Municipality. It has been argued on behalf of the petitioners that if based on the resolution dated 3rd March, 2000 petitioners were appointed then on what basis it was represented before the respondent no. 2 that they were not appointed against the sanctioned vacancies.

Having considered the submissions made on behalf of the petitioners and taking note of the resolution dated 3rd March, 2000 as well as appointment letters which are annexed to this writ petition as Annexure P-2 it appears that the respondent no. 2 took hasty decision simply on the basis of the deliberation made on behalf of the Baidyabati Municipality without looking into the appointment letters and the resolution dated 3rd March, 2000. It further appears that the Government Order dated 7th May, 2009 has been referred to by the respondent no. 2 in his order dated 19th March, 2020 but why such Government Order dated 7th May, 2009 is not applicable in this case considering the fact that the petitioners were appointed in the year 2000 has not been elaborated

in the order of the respondent no. 2. On aforesaid consideration the order of the respondent no. 2 being annexure P-22 to this writ petition at page 80 stands set aside and the issue is remanded to the said respondent no. 2 to take decision afresh after granting opportunity of hearing to the petitioners or their representative and the representative of the Baidyabati Municipality within a period of 12 weeks from the date of communication of this order. Petitioners shall be at liberty to rely upon all the relevant orders and documents at the time of consideration of the issue by the respondent no. 2. The decision to be taken by the respondent no. 2 shall be communicated to the petitioners within two weeks thereafter.

With the aforesaid direction the writ petition stands disposed of. However, there shall be no order as to costs.

The notice served upon the learned advocates representing the Municipality is taken on record.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)