

**IN THE HIGH COURT AT CALCUTTA**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

**Present :- Hon'ble Justice Amrita Sinha**

**WPA No. 6033 of 2020**

**Animesh Roy & Ors.**

**Vs.**

**The State of West Bengal & Ors.**

**With**

**CAN 2 of 2020, CAN 3 of 2020, CAN 4 of 2020 &  
CAN 8 of 2022**

|                                |    |                                                                                                                                             |
|--------------------------------|----|---------------------------------------------------------------------------------------------------------------------------------------------|
| For the writ petitioners       | :- | Mr. Saptansu Basu, Sr. Adv.<br>Mr. Ayan Banerjee, Adv.<br>Mr. Arindam Chatterjee, Adv.<br>Ms. Debosree Dhamali, Adv.<br>Ms. Ria Ghosh, Adv. |
| For the Intervenor             | :- | Mr. Samim Ahammed, Adv.<br>Mr. Arka Maiti, Adv.<br>Ms. Saloni Bhayyacharya, Adv.<br>Mr. Arka Ranjan Bhattachaya, Adv.                       |
| For the respondent nos. 3 to 5 | :- | Mr. Tapas Kumar Ghosh, Adv.<br>Mr. Tanmay Chowdhury, Adv.                                                                                   |
| Heard on                       | :- | 16.10.2023, 17.11.2023, 29.11.2023                                                                                                          |
| Judgment on                    | :- | 15.12.2023                                                                                                                                  |

**Amrita Sinha, J.:-**

The writ petition has been filed by thirty two petitioners challenging the action on the part of the Director of Local Bodies and the Commissioner, Urban Development and Municipal Affairs Department in terminating their service without affording them any opportunity of hearing and without assigning any cogent reason.

The case of the petitioners is that pursuant to an advertisement published for appointment in the posts of Peon and Mazdoor by the Hooghly-Chinsurah Municipality ('the Municipality' for short) in the newspapers on 8<sup>th</sup> January, 2020, the petitioners applied for the said post. A regular selection process was conducted and on being found eligible, appointment letter was issued in their favour. The panel of selected candidates was sent for recommendation and approval to the Director of Local Bodies. By memo dated 20<sup>th</sup> March, 2020, the Director of Local

Bodies informed the Chairman of the Municipality that the Governor has been pleased to accord approval under Section 54 (3) of the West Bengal Municipal Act, 1993 to the appointment of 74 persons as mentioned in annexure A to the attached memo with effect from the date of their joining.

The petitioners claim that their names featured in annexure A. The Municipality issued appointment letters to the petitioners in their respective posts of Peon and Mazdoor on 23<sup>rd</sup> March, 2020. The appointment letters indicates that the appointment has been made in the scale of pay as per ROPA 2019 along with allowances, as admissible, as per Government Order issued by the Municipal Affairs department from time to time. The service was governed as per the West Bengal Municipal (Employees' Service) Rules, 2010 since amended. On the basis of the said appointment letters the petitioners joined their respective posts and were issued posting order for serving the various sections of the Municipality. The petitioners were paid their salary for the broken period of the month of March, 2020 for performing their duties.

By a communication dated 6<sup>th</sup> July, 2020 the petitioners were informed that as directed by the Minister in-charge, Urban Development and Municipal Affairs Department duly informed by the Director of Local Bodies, the appointment of the petitioners has been terminated with effect from 3<sup>rd</sup> July, 2020.

The petitioners submit that the letter of termination is without any authority of law. The same is ex facie bad because it has been issued under the dictate of a higher authority upon total non-application of mind. The said letter was issued without following the principles of natural justice, without issuing any show cause or without initiating any disciplinary proceeding. The order of termination is a non-speaking one and no reason has been disclosed therein for terminating their service.

It has been contended that the selection process by which the petitioners were selected for appointment was conducted in accordance with the service rules and their appointment was duly approved by the Director of Local Bodies. Apart

from a complaint by the Minister in-charge, none of the unsuccessful candidates approached either the Municipality or the Director of Local Bodies alleging discrepancy in the selection process. No writ petition has been filed by any of the unsuccessful candidates challenging the selection process. The Minister in-charge could not have *suo motu* raised the issue of illegal appointment.

It has been submitted that the termination letter was on the dictate of the Minister who is no way connected with the recruitment process. The major penalty of termination from service has been imposed without a proceeding being conducted. The Deputy Director who has deposed alleging procedural lapses, himself was a member of the selection committee and he ascribed his signature in the score sheet. The petitioners were never intimated regarding the enquiry that was conducted and the entire enquiry was conducted behind the back of the petitioners. The petitioners ought to have been afforded opportunity to participate in the enquiry process.

It has further been argued that as the service of the petitioners have been approved by the order of the Governor, the petitioners acquired a permanent status in service and their service cannot be terminated without following the settled principle of law. The petitioners are no way responsible for any procedural lapses in the recruitment process and, accordingly, the petitioners ought not to be penalized by terminating their service. The petitioners pray for setting aside the impugned order of termination and consequential relief.

In support of their stand, the petitioners rely upon the judgment delivered by the Hon'ble Supreme Court in the matter **Shri Iswar Chandra vs. Shri Satyanarain Sinha & Ors.** reported in **(1972) 3 SCC 383**.

The petitioners rely on the decision of the Hon'ble Supreme Court in the matter of **Bahadursinh Lakhubhai Gohil vs Jagdishbhai M. Kamalia & Ors.** reported in **(2004) 2 SCC 65** wherein the Court took note of the settled position of law that if any decision is taken by a statutory authority at the behest or the

suggestion of a person who has no statutory role to play, the same would be ultra vires.

Reliance has also been placed on the decision delivered by this Court in the matter of ***Rani Sati Kerosene Supply Company & Ors. -vs- State of West Bengal & Ors.*** reported in ***(2005) 4 CHN 264.***

The submissions and prayers of the petitioners have been opposed by the State respondents. It has been submitted that complaints were received by the Minister in-charge, Department of Urban Development and Municipal Affairs alleging illegal recruitment in the group D post of the Municipality. The said complaints were forwarded to the Director of Local Bodies with request to conduct an enquiry and to send the enquiry report to the Minister. On receipt of the communication from the Minister, the Director of Local Bodies wrote to the Joint Director of Local Bodies to cause an enquiry in the recruitment process. An enquiry was conducted by the said Joint Director of Local Bodies and an enquiry report was prepared. Several anomalies and/or illegalities in the recruitment process were observed.

It was observed that the minutes of the first meeting of the Selection Committee were not recorded properly. Admit cards were not properly sent to the candidates. About 34% of the eligible candidates for the post of Mazdoor and about 24% of eligible candidates for the post of Peon remained absent in the written examination.

It was found that no approval was taken from the Board of Councillors for selection of agency to conduct the written examination. The Board of Councillors was never informed about the stage-wise progress of recruitment, the list of eligible candidates for interview and their scores in the written examination. Admit cards and call letters were served only through post. Alternate mode of informing the candidates about the written examination and the interview resulted in the denial of the right of the eligible candidates to appear in the selection process. The gap of fifteen days as was decided to be maintained between the date of posting of the call

letter and the date of holding the viva voce was not maintained. The reservation policy was not properly followed.

The meeting of the selection committee was held on 1<sup>st</sup> March, 2020 and the viva voce was held on 12<sup>th</sup> March, 2020. Interview of 414 candidates was taken on a single date, that is, on 12<sup>th</sup> March, 2020. The interview started at 11 am and was concluded well ahead of 6.30 pm considering the fact that the meeting of the selection committee was held on the self same date, that is, on 12<sup>th</sup> March, 2020 at 6.30 pm. The entire details of the interview, the final score sheet and panel of successful candidates were prepared and placed before the third meeting of the selection committee which took place on 12<sup>th</sup> March, 2020 at 6.30 pm. Despite repeated requests the Municipality did not send the score sheet of the marks awarded to the candidates in the interview to the selection committee.

In the enquiry, the Deputy Director of Local Bodies, Burdwan Division office being a member of the selection committee deposed that on the date of interview the representative of private agency was present. Objection was made by the said Deputy Director regarding faulty procedure but the same was not redressed by the Municipality. The Deputy Director admitted that he had not interviewed all the candidates but only a selected number of candidates, as assigned to him by the Municipality, was interviewed by him. Engagement of any other member other than a designated member of a selection committee to hold interview is in contravention of the West Bengal Municipal Employees' (Recruitment) Rules, 2005.

The Executive Officer of the Municipality being a member of the selection committee deposed that he only interviewed a handful of selected number of candidates. Interview of other candidates was taken by some other person at a different table. The Chairman of the Municipality being the Chairperson/President of the selection committee deposed that the Municipality was trying to complete the recruitment process at a fast pace and as such interview was held in a single day.

On perusal of the enquiry report, the Joint Director of Local Bodies opined that the recruitment process was vitiated on account of procedural lapses and recommended cancellation of the entire process. The Minister in-charge of the Urban Development and Municipal Affairs Department approved the recommendation of the Director of Local Bodies and instructed the Chairman of the Municipality to start the process afresh by setting aside the action taken by the Municipality. Consequent to the aforesaid instruction from the Director of Local Bodies letter of termination was issued to the petitioners.

The State respondents contend that an exhaustive enquiry was conducted to ascertain as to whether the selection process was in accordance with the recruitment rules but when it transpired that the selection process was vitiated with illegalities, there was no other option but to cancel the entire process and terminate the appointment of the petitioners.

The Municipality has filed one affidavit in opposition, one supplementary affidavit in opposition and a further affidavit. The first was affirmed by one Sri. Gouri Kanta Mukherjee serving as the Chairperson (erstwhile Chairman of the Board of Administrators of the Municipality) claiming himself to be well acquainted with the facts and circumstances of the instant case.

In the affidavit it has been disclosed that the Board of Councillors of the Municipality in its Special Meeting held on 30<sup>th</sup> November, 2019 adopted a resolution to fill up the vacant posts of Peon and Mazdoor of the Municipality and sought permission from the Director of Local Bodies for filling up the same. The Director of Local Bodies by communication dated 26<sup>th</sup> December, 2019 accorded permission for filling up 76 posts in accordance with the recruitment rules.

On receipt of the prior permission the Board of Councillors of the Municipality adopted a resolution on 30<sup>th</sup> December, 2019 to form a selection committee consisting of eight persons namely 1) the Chairperson, Board of Administrators of the Municipality as the Chairman, 2) the CIC member (health), 3) Councillor Ward no. 11, 4) Councillor Ward no. 19, 5) Assistant Director of Local

Bodies, Burdwan Division, 6) Executive Officer of the Municipality, 7) Finance Officer of the Municipality and 8) one social worker from Ward no. 13.

The first meeting of the selection committee was held on 6<sup>th</sup> January, 2020 and in the said meeting the selection committee fixed the terms and conditions according to which the selection process would be conducted. The selection committee entrusted the Chairman of the committee to arrange for a venue and other necessary requirements for conducting the written examination in proper and fair manner.

As per the resolution adopted in the first meeting of the selection committee, the Chairman uploaded the employment notice in the official website of the Municipality and published the same in the newspapers, one English and one Bengali. The schedule of the written examination along with venue was also uploaded in the official website of the Municipality. Separate admit card/call letter to the intending candidates were issued. The written examination of all the candidates was successfully concluded.

Second meeting of the selection committee was held on 1<sup>st</sup> March, 2020 and conditions were formulated for holding the viva voce. The date and time for conducting viva voce was also fixed in the said meeting. The names of the successful candidates who passed the written examination was published in the official website of the Municipality.

The interview was held on 12<sup>th</sup> March, 2020 and the selection committee recorded the attendance of the candidates and conducted the interview in a smooth manner. Separate marks to the respective candidates were awarded at the time of interview and the score sheet was duly signed. The selection committee prepared the final score sheet and the same was endorsed by the deponent in the capacity of the Chairman of the selection committee. On the evening of the date of the interview, the selection committee consisting of eight members decided to prepare the panel then and there to expedite the recruitment process. The third meeting of the selection committee was held in the evening of the date of the

interview, i.e, 12<sup>th</sup> March, 2020 and final score sheet was prepared after verifying and scrutinising the marks of all the candidates.

The final panel of the selected candidates was placed in the Emergency Meeting of the Board of Councillors of the Municipality on 17<sup>th</sup> March, 2020 for its approval and the same was duly approved. The Chairperson of the Municipality sought for government approval for appointment to the posts of Peon and Mazdoor with all supporting documents. The Director of Local Bodies by communication dated 20<sup>th</sup> March, 2020 accorded approval by disclosing that the Hon'ble Governor has also been pleased to accord approval to 74 candidates under Section 54(3) of the West Bengal Municipal Act, 1993. After getting the approval for appointment from the Director of Local Bodies the Chairperson issued the letter of appointment to the successful candidates and the candidates joined their respective posts on 23<sup>rd</sup> March, 2020 and their joining was accepted by the Municipality.

The tenure of the Board of Councillors of the Municipality stood dissolved on 20<sup>th</sup> May, 2020 and by special Government Order the Board of Administrators was appointed to look after the day to day business of the Municipality. The Board of Administrators in its meeting held on 9<sup>th</sup> June, 2020 decided to disburse the salary of nine days for the period 23<sup>rd</sup> March, 2020 to 31<sup>st</sup> March, 2020 in favour of the newly appointed employees from the municipal funds. To obey the direction passed by the Director of Local Bodies, the Chairperson of the Municipality did not have any other alternative but to cancel the appointment of the newly appointed employees by issuing letter on 6<sup>th</sup> July, 2020.

It has been contended that the selection committee conducted the selection process strictly in accordance with law. It has been denied that there were any procedural lapses in the selection process. The letter of termination had to be issued as per the direction of the superior authority and the Municipality could not fulfil the legal procedure for termination of employees as mentioned in the West Bengal Municipal (Employees' Service) Rules, 2010.

On 15<sup>th</sup> July, 2022 a supplementary affidavit-in-opposition has been filed by one Amit Ray being the present Chairman of the Municipality claiming himself to be well acquainted with the facts and circumstances of the case. In the said affidavit it has been contended that the Municipality do not intend to enter into any conflict with the department of Municipal Affairs. The Board of Councillors of the Municipality held a meeting on 31<sup>st</sup> March, 2022 in connection with the appointment of the group D staff in the Municipality and resolved that the Municipality will abide by the decision of the Government in cancelling the recruitment process.

A further affidavit has been affirmed by Sri Amit Ray on 23<sup>rd</sup> November, 2023 unequivocally admitting that the entire engagement procedure of the Municipality was done wrongly.

An application for intervention has been filed by four applicants claiming to be the Councillors of the Municipality. The applicants state that after being elected, they along with the other Councillors had formed the Board of Councillors of the Municipality. They state that it is on their complaint that the enquiry in connection with the illegal recruitment process was conducted and it was revealed that the entire selection process suffers from procedural lapses. The recruitment process was, accordingly, set aside by the Director of Local Bodies.

It has been submitted that no decision relating to recruitment was ever adopted by the Board of Councillors prior to the issuance of the employment notice. No notice of meeting circulating agenda relating to the recruitment was ever circulated. The resolution relating to the recruitment process allegedly placed before this Court was never circulated to the Councillors. The resolution at page 82 of the writ petition is a manufactured document.

It has been submitted that a written test was held on 1<sup>st</sup> March, 2020 and approximately twelve thousand candidates participated in the said test. It is practically impossible to evaluate the answer scripts of twelve thousand candidates within two days. Two list of candidates eligible for interview was published on 4<sup>th</sup>

March, 2020 and 6<sup>th</sup> March, 2020. No meeting was held before publication of the list of eligible candidates for participating in the interview. No explanation has been forwarded as to why two lists on two separate dates i.e., 4<sup>th</sup> March and 6<sup>th</sup> March were published.

The Councillor of the ruling party, namely, Soumitra Malakar is a beneficiary of the selection process who has been selected and appointed in the post of Mazdoor. The said Councillor was receiving his remuneration as a Councillor even after his appointment as Mazdoor.

The son of Councillor Suparna Sen and the son of Councillor Jaydeb Adhikary were also given appointment. Both the Councillors were present in the meeting of the Board of Councillors held on 17<sup>th</sup> March, 2020 where the purported panel was approved. The entire recruitment process was conducted in hot haste and the alleged panel was approved on 20<sup>th</sup> March, 2020.

It has been pointed out that the resolution of the Board of Councillors annexed at page 82 of the writ petition was not signed by all the Councillors of the Municipality. Based on the manufactured resolution, subsequent steps relating to recruitment were taken.

In the Board of Councillors meeting held on 17<sup>th</sup> March, 2020, the applicants for the first time came to learn about the selection process for recruitment of Peon and Mazdoor. Being aggrieved the applicants walked out of the meeting because they were not made aware of the selection process at all. Complaints were lodged before the Chairman of the Selection Committee. Despite pending complaints, the Selection Committee proceeded with the panel and got the same approved by the Director of Local Bodies. The Chairman, at whose instance the entire illegality was committed, has been appointed as Administrator on the expiry of the tenure of the elected Board and, accordingly, it is impossible for the Municipality to defend the writ petition impartially.

The intervenors/ applicants have tried to highlight several illegalities and procedural lapses which allegedly cropped up in the selection process. The

applicants oppose the prayer of the petitioners and support the order of cancellation of the recruitment process.

It has been contended that no right accrued in favour of the petitioners as the selection was not conducted in a free and fair manner. Nepotism has been alleged. Appointment was given to the candidates of choice. There has been no consideration on merits.

The State respondents, the applicants and the present stand of the Municipality is that the entire recruitment process was conducted in super haste and there are illegalities galore in the entire recruitment process. Prayer has been made for dismissing the writ petition.

I have heard and considered the detailed rival submissions made on behalf of all the parties including the intervenors/ applicants.

The issue relates to public recruitment in the posts of Peon and Mazdoor in the Hooghly-Chinsurah Municipality. The entire timeline of the recruitment process starting from the decision to initiate the recruitment process till issuance of the letter of appointment will be important to arrive at a logical conclusion of the dispute raised by the petitioners who claim to be appointed through a regular selection process conducted by the Municipality.

**26<sup>th</sup> December, 2019:** Prior permission was accorded by the Director of Local Bodies for filling up 76 sanctioned vacant posts in the Municipality.

**30<sup>th</sup> December, 2019:** The Board of Councillors in its meeting resolved to form a Selection Committee.

**6<sup>th</sup> January, 2020:** The first meeting of the selection committee was held.

**8<sup>th</sup> January, 2020:** Advertisement was published in the official website of the Municipality and in one Bengali and one English newspaper inviting applications from eligible candidates for recruitment in the vacant posts.

**1<sup>st</sup> March, 2020:** Written examination was conducted.

**4<sup>th</sup> March, 2020:** List of eligible candidates to appear in the interview was published in the official website of the Municipality.

**12<sup>th</sup> March, 2020:** Interview was held and final score sheet of the eligible candidates was prepared. At 6.30 pm second meeting of the selection committee was held.

**17<sup>th</sup> March, 2020:** Board of Councillors considered the panel and recommended the same for approval to the Director of Local Bodies.

**20<sup>th</sup> March, 2020:** The Director of Local Bodies informed the Chairman of the Municipality that the Governor was pleased to accord approval to the appointment of 74 persons whose names appear in annexure A of the communicating letter of the Director of Local Bodies.

**23<sup>rd</sup> March, 2020:** Appointment letter was issued in favour of the empanelled candidates.

**3<sup>rd</sup> July, 2020:** The Director of Local Bodies informed the Chairman that an in-house enquiry was conducted on a complaint made by the Minister in-charge alleging procedural lapses. The enquiry was conducted and on detection of procedural lapses the entire selection process was cancelled.

**6<sup>th</sup> July, 2020:** A formal letter of termination of appointment was issued.

From the timeline as mentioned hereinabove it is evident that the entire recruitment process starting from obtaining prior permission till the conclusion of the selection process and issuance of the appointment letter took place within a record time of less than three months. The vacancies in question were 76 and it appears from the submission of the parties that in response to the recruitment notice scores of applications were received. The written examination was conducted on 1<sup>st</sup> March, 2020 and two lists of selected candidates eligible for interview were published on 4<sup>th</sup> March, 2020 and 6<sup>th</sup> March, 2020 respectively. The two lists differed from each other.

In the in-house enquiry conducted at the instance of the Director of Local Bodies it was revealed that enough time gap was not there at the time of issuance of the admit card, call letter and the participants may not have got enough time to participate in the recruitment process despite they being eligible for the same.

It was detected that nearly 24% of the eligible candidates remained absent in the written test for the post of Peon and nearly 34% of the eligible candidates remained absent for the written test for the post of Mazdoor. The Deputy Director of the Burdwan Division deposed that it was pointed out before the selection committee that the selection process was faulty but the selection committee ignored to take note of such comment. The Deputy Director also deposed that he

did not interview all the candidates but only a handful of selected candidates were assigned to him by the Municipality for conducting interview.

It is an absolutely herculean task to hold interview of three hundred fifty candidates on a single day and thereafter compile and collate their marks and prepare final score sheet on the same day and thereafter place the panel of selected candidates for approval in the meeting on that day itself. The submission of the respondents that the entire recruitment process was conducted in hot haste is evident in each and every step.

What is surprising is that the Municipality issued the letter of appointment to the candidates on a single day and all the candidates joined service in the Municipality on 23<sup>rd</sup> March, 2020. The Court cannot miss taking note of the fact that the country was put under complete lockdown on and from 25<sup>th</sup> March, 2020, and as such, the petitioners could not have performed their duties despite appointment letter being issued to them. The Municipality, even thereafter, paid the petitioners on account of their salary for the broken period for the month of March, 2020 from the Municipality's own fund.

Contention of the petitioners that as appointment letter was issued to them duly approved by the Governor, their service has to be treated as permanent and without initiation of a regular disciplinary proceeding their service ought not to be terminated, cannot be accepted by the Court, in view of the decision delivered by the Hon'ble Supreme Court of India in ***State of Bihar & Ors. vs. Kirti Narayan Prasad*** reported in ***2018 SCC Online SC 2615*** wherein the Court *inter alia* held that the employees whose appointment was illegal and void ab initio cannot be said to be civil servants of the State and there is no requirement of initiating disciplinary proceedings against them for terminating their service. When the recruitment process itself has been cancelled after it was found to be suffering from several procedural lapses, the petitioners cannot be held to be appointed in accordance with the rules. No right accrued in favour of the petitioners as the recruitment process has been annulled. None can claim benefit of an illegally conducted recruitment process which ultimately stood cancelled.

In Bahadursinh (supra) the Court deprecated the idea of taking steps on dictation of superior authorities. True it is, but here the Minister took action on receipt of the complaint from the Councillors of the same Municipality who clearly highlighted the illegalities. An in-house enquiry was conducted prior to taking the decision to cancel the entire recruitment process leading to cancellation of the letter of appointment of the petitioners. Not taking any steps even after receipt of the complaint would have resulted in gross injustice. The balance of justice and injustice tilts in favour of taking action on receipt of a complaint rather than to sit tight over the issue even after getting knowledge of illegalities being committed in a public recruitment process.

The sheer speed in which the whole recruitment process was conducted leaves no doubt in the mind of the Court that the same was engineered for the benefit of the candidates who were ultimately issued the appointment letter i.e, the petitioners herein. The Councillor himself and at least children of two Councillors got the job. The said Councillors were part of the selection committee. In such a situation, nepotism and favouritism cannot be ruled out. The entire recruitment process appears to be a mere eyewash to scrape through the legal paraphernalia.

It is common knowledge that any public employment process is time consuming. The recruitment process could not have been concluded within such short span of time. Several logistic issues are there. The Court is not aware as to how the government representative signed in the scoresheet, but fact remains that he deposed in the enquiry and submitted that the illegalities pointed out by him were ignored by the selection committee. In such position the said representative ought not to have signed the documents, but irrespective of signing the documents the same does not become sacrosanct.

In between 1<sup>st</sup> March to 20<sup>th</sup> March, 2020 the written exams, interview, preparation of final scoresheet, preparation of panel of selected candidates, forwarding the panel to the department, getting the same approved by the Director of Local Bodies, everything was over. It is also not known as to how the panel, which was recommended by the selection committee on 17<sup>th</sup> March 2020, could

have landed up on the table of the Director of Local Bodies and got approved on 20<sup>th</sup> March 2020. By that time Covid had set in and the departments were not functioning normally. 21<sup>st</sup> March 2020 was a Saturday and Sunday 22<sup>nd</sup> March 2020 was declared as Janta Curfew by the Prime Minister of India and the entire nation came to a standstill. Even thereafter, the petitioners managed to obtain appointment letter on 23<sup>rd</sup> March 2020. It is not understandable as to how appointment letters of seventy-four candidates could be prepared in the weekend and how all the candidates joined on the same day i.e, Monday 23<sup>rd</sup> March, 2020. The same appears to be nothing less than magic. A practically impossible feat has been achieved by the petitioners. The State would have progressed by leaps and bounds had public employment been possible at such breakneck speed.

In ***S.P.Kapoor (Dr.) vs. State of HP*** reported in **(1981) 4 SCC 716** the Court held that when a thing is done in a post-haste manner, mala fide would be presumed. In the present case the entire process of recruitment took place in jet speed and the Court cannot afford to overlook the same. Mala fide writ large in the whole process.

In Rani Sati (supra) the Court refused to accept the submission of the State, that the Minister, being the administrative 'head' of the department, has the right to supervise all the activities of his subordinate officers in the matter of discharging statutory duty.

In the instant case the role of the Minister has to be taken as whistle blower and the trigger was the complaint filed by the councillors in response to which the Minister flung into action. It is only after enquiry was conducted that the illegality was unearthed. Had the curtain behind which the unlawful activity took place not been lifted then the illegality would have been perpetrated and the illegal recruitment would have passed on as a legal one.

There isn't any iota of doubt in the mind of the Court that the recruitment process was far from being fair and transparent. On the contrary, it appears to be marred by illegalities galore. The stand of the Municipality also raises genuine

doubts in the mind of the Court with regard to the fairness in the process. The manner in which the Municipality has changed its stand goes to show that everything was not right in the process. It is settled law that public employment should be made strictly in accordance with the recruitment rules. The department has cancelled the entire selection after illegalities were noted. The Court does not find any error in such cancellation.

In view of the above the Court refrains from exercising jurisdiction in the matter. The writ petition fails and is hereby dismissed. All connected applications stand disposed of.

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

Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

**(Amrita Sinha, J.)**