

D/L
Item No. 2
09.01.2023
KOLE

**FMA 868 of 2021
With
IA No. CAN 1 of 2021

Utpal Mandal & Anr.
-Vs.-
The West Bengal Co-operative Service
Commission & Ors.**

*Mr. Asim Banerjee,
Mr. A. B. Chakraborty*

...for the appellants.

*Mr. Pradip Kumar Roy,
Mr. J. Roy,
Mr. Ankit Sureka,*

...for the respondent nos. 1 and 2.

Mr. Srijan Nayek,

...for the respondent no. 3.

By consent of the parties the appeal and the application are taken up for hearing together.

This appeal is directed against a judgment and order dated March 25, 2021, whereby the writ petition of the appellants, being WPA 5921 of 2021 was dismissed.

The writ petitioners challenged the process of recruitment of Upper Education Clerks conducted by the West Bengal Cooperative Service Commission pursuant to advertisement No. 01 of 2020. The Learned Judge, apart from negating the grounds of challenge raised by the writ petitioners, further recorded that the writ petitioners having even otherwise participated in the selection process, they cannot be permitted to now turn around and challenge the same.

We do not find any apparent infirmity in the order of the learned Single Judge. Hence, we do not touch that order.

However, the learned Advocate for the appellants/writ petitioners says that two representations dated February 1, 2021 and February 10, 2021 (pages 35 and 37 of the writ petition respectively) have been made by the appellant nos. 1 and 2 respectively, addressed to the Secretary of the West Bengal Cooperative Service Commission. He says that such representations should be considered.

Mr. Roy, learned Advocate, representing the Service Commission says that there is absolutely no merit in the representations.

We are of the view that since representations have been made, the same may be considered and if the Cooperative Service Commission is of the opinion that the same are meritless, nothing will prevent them from rejecting the representations.

Accordingly, we direct the Secretary of the West Bengal Cooperative Service Commission to consider and dispose of the representations made by the appellants (pages 35 and 37 of the writ petition), in the light of all relevant documents including Annexure P5 to the writ petition, by a reasoned order, in accordance with law, after giving an opportunity of hearing to the appellants within a period of four weeks from the date of communication of this order. The decision so taken shall be communicated to the appellants within a week from the date of the decision. The Secretary to the Service Commission shall decide the representations without being influenced by any observation in the order of the learned Single Judge or in this order.

The appeal and the stay application are, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)