

17.08.2023
SL No.165
Court No.8
(gc)

**MAT 708 of 2023
CAN 1 of 2023**

**Biswanath Das
Vs.
The State of West Bengal & Ors.**

Mr. Uday Sankar Chattopadhyay,
Ms. Rajashree Tah,
Ms. Trisha Rakshit,
Ms. Aishwarya Datta,
...for the Appellant.
Mr. Sunit Kr. Roy,
...for the College Authority.
Mr. Amitava Choudhuri.
Ms. N. Roy,
...for the University.
Mr. Biswabrata Basu Mallick,A.G.P
Ms. Mrinalini Majumdar,
...for the State.

1. The petitioner was the second empanelled candidate for the post of Guard at Krishnagar Women's College, Nadia. The first empanelled candidate was not given the appointment. He filed a writ petition being W.P. No.26804 (W) of 2013 (Ranajit Chaudhuri Vs. State of West Bengal & Ors.) before this Court seeking appointment following his empanelment. The learned Single Judge dismissed the writ petition by an order dated 1st February, 2014 by observing that the Governing Body of the College had cancelled the panel on 30th June, 2012 and his empanelment did not

create any right to be appointed against the relevant post.

2. The first empanelled candidate preferred an appeal but he passed away during the pendency of the appeal sometimes in 2017. The present writ petition has been filed in the year 2023 where it was stated that he was not aware of the death of the first empanelled candidate and after a lapse of about 12 years from the date of preparation of the panel, he filed the present writ petition.
3. The learned Single Judge dismissed the writ petitioner, firstly, on the ground of inordinate delay and, secondly, that the first empanelled candidate was not able to establish his right before the learned Single Judge on the ground that the panel in question was cancelled by the Governing Body. The said finding is binding on the coordinate Bench deciding the writ petition as the basis of the challenge in the first writ petition had attained finality by reason of a clear finding to that effect and also having regard to the fact that there was no stay when the appeal was preferred and the appeal was abated by reason of the death of the first empanelled candidate.

4. The learned Counsel for the College Authority has produced before us a communication dated 6th April, 2011 wherefrom it appears that the District Magistrate, Nadia informed the President/Chairman, Krishnagar Women's College that the meeting conducted by the Managing Committee on 7th March, 2011 is not in conformity with the MCC Code and, as such, the decision for inviting the application and formation of the panel was illegal and no resolution of the meeting could have been given effect to.
5. The State in the affidavit dated 3rd March, 2023, has stated that the panel prepared in connection with the selection process held on 17th March, 2010 in the said College was cancelled and new prior permission has been sought for which is pending.
6. A panel usually has life span of vacancy. Moreover, having regard to the fact that the State has taken a decision to initiate fresh selection process, we are not inclined to interfere with the order passed by the learned Single Judge.
7. The appeal fails.
8. Accordingly, the appeal and the connected application stand dismissed.

9. However, there shall be no order as to costs.
10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)