

15.
3.7.2023
S.D.

W.P.A. 12911 of 2023

**Chinmoy Mahata & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Rajarshi Chatterjee

Mr. Gobinda Dey

..For the Petitioners

Mr. Debasish Ghosh

Mr. Debapriya Chatterjee

...For the Respondent No. 4

Affidavit of service filed in Court today is retained with the records.

An undertaking is given on behalf of the learned counsel for the petitioners to file deficit Court fees by tomorrow, i.e. July 4, 2023.

The petitioners applied for engagement as Tax Collectors pursuant to an advertisement dated February 27, 2023 issued by Pingboni Gram Panchayat, District – Paschim Medinipur. The said advertisement was issued by the Pradhan of the Gram Panchayat.

Mr. Chatterjee, learned counsel appearing on behalf of the petitioner submits that as per the Notification dated May

27, 2005, the general criteria for engagement of a Tax Collector (Collecting Sarkar) entailed the following:-

“General Criteria for engagement of a Collecting Sarkar:-

1. Minimum Age: 25 years on date of engagement,
2. Educational Qualification,

Passed Madhyamik or equivalent from any recognized Board, Council or University,

3. Residence; Local (within the Gram Panchayat)
4. Maximum/Upper age limit for engagement;

The Gram Panchayat should be satisfied with the mental and physical fitness of the Collecting Sarkar for engagement/renewal of contract.”

The method of selection was on the basis of merit and work experience.

Therefore, it is submitted that the incumbents could not be called for interview for assessing the merit of the candidates.

Learned counsel appears on behalf of the respondent no. 4/the Pradhan, Pingboni Gram Panchayat and submits that the Pradhan had the liberty to assess the eligibility of the incumbents on the basis of merit as well as work experience. Therefore, the Pradhan did not commit any infirmity by calling the incumbents for interview.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the petitioners were called for interview on April 13, 2023. The petitioners participated in the said interview. Thereafter, a panel was prepared by five members of the Interview Board on April 20, 2023.

When the petitioner nos. 1 and 4 found that the names of the petitioners did not appear in the list of selected candidates, the petitioners made a representation on May 8, 2023 alleging that the petitioners could not be interviewed and the said interview has been held in derogation of the Notification dated May 27, 2005.

This Court finds that in the advertisement dated February 27, 2023 the fact that the candidates will be selected by the process of *interview* was clearly notified. That the candidates would be selected on the basis of their merit being assessed by way of interview was clearly indicated in the said advertisement. Knowing fully well the method of selection, the petitioners participated in the said process. Therefore, the petitioners cannot be allowed to approbate and reprobate knowing fully well the process of selection and participating in the same without any protest or demur till such time the results were published. The petitioners are now refrained

from challenging the said process of selection. Beneficial references may be made to the Apex Court's judgments reported in (1995) 3 SCC 486 (**Madan Lal & Ors. vs. State of J &K & Ors.**) and (2019) 10 SCC 34 (**AIR Commodore Naveen Jain vs. Union of India & Ors.**).

Furthermore, this Court finds that the Notification dated May 27, 2005 does not limit the power of the Pradhan to decide the question of merit by looking into the general criteria for engagement. The Pradhan has to assess the merit and work experience by way of any form of assessment that the Pradhan may think fit necessary for engagement of the selected candidates. The Gram Panchayat has to be satisfied with the mental and physical fitness for engagement/renewal of the Sarkars. In order to assess the mental/physical fitness if the Pradhan decides that an interview is required, this Court finds no infirmity in the said decision making process.

In the light of the discussions above, this Court is of the view that the petitioners have not been able to prove their *locus standi* to maintain the writ petition.

Accordingly, **W.P.A. 12911 of 2023 is dismissed.**

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the petition are deemed not to have been admitted by the parties.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)