

13.06.2023
Item No.13
Court No.18
AJ.

W.P.A. 16436 of 2022

Smt. Sutapa Roy
-Vs-
The State of West Bengal & Ors.

Mr. Swarup Banerjee,
Mr. Sajal Kumar Ghosh,
Mr. Manoj Kumar Bhattacharyya.
.....for the petitioner.
Mr. Avishek Prasad.
.....for the State.
Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey.
....for the WBCSSC.

The petitioner participated in the 12th Regional Level Selection Test, 2011 for appointment in the post of Assistant Teacher for the subject Bio-Science (Pass) as a general candidate but was unsuccessful.

The petitioner has alleged that in Bengali paper, she answered question no.16 correctly but no mark was awarded to her as the answer key was wrong, she is praying allotment of mark in respect of the said question and consideration of her candidature in the said selection process.

The Commission, in its affidavit, though has admitted that the petitioner had correctly answered the question no. 16 but it is the specific case of the Commission that the panel has expired long back on March 24, 2015, as such, at this belated stage, the prayer of the petitioner cannot be considered.

Mr. Banerjee, learned Advocate for the petitioner submits that admittedly, the petitioner has not been awarded marks against her correct

answer. He, relying on the full Bench decision of the Hon'ble Supreme Court in the case of **TILOKCHAND AND MOTICHAND & ORS. vs. H.B. MNUNSHI & ANR.** reported in **(1969) 1 SCC 110**, submits that delay cannot be a bar in to exercise of the jurisdiction under Articles 226 or 227 of the Constitution of India.

Heard the learned Counsel for the parties, perused the materials-on-record.

The selection test was held on July 29, 2012 and on basis of the said selection test, a panel was prepared which has expired on March 24, 2015.

It appears from the materials-on-record that the petitioner, on February 07, 2019, applied to the Commission under Right to Information Act, 2005 to know her result in the said selection test, such belated move is fatal, particularly when the panel had expired by the time she made the said application.

There is no dispute with regard to the proposition of law laid down in the aforementioned decision of the Hon'ble Supreme Court cited by Mr. Banerjee but it has no manner of application in the facts and circumstances of the present case

W.P.A. 16436 of 2022, for the aforesaid reason fails and is accordingly dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)