

09.01.2023

WPST 76 of 2022

Court : 04
Item : 39
Matter : WPST
Status : DO
Transcriber: NANDY

Arif Mandal
Vs.
The State of West Bengal & Ors.

Mr. Goutam Banerjee, Advocate
Mr. Sandip Kumar Mondal, Advocate
Ms. Chumki Das Banerjee, Advocate
Ms. Priya Dey, Advocate

.....for the Petitioner

Mr. Raja Saha, Advocate
Mr. Biswabrata Basu Mullick, Advocate
Mr. Sayan Ganguly, Advocate

.....for the State

Mr. Satyendra Agarwal, Advocate
Mr. Bijay Bag, Advocate

.....for the Respondent Nos. 2 to 5

The unsuccessful candidate in selection test approached the Tribunal to publish the merit list in respect of OBC, PH (LV) with score and to mention the last cut-off marks in respect of each category. Another prayer is made to issue a letter of appointment if the petitioner comes within the zone of consideration acquiring the requisite marks fixed for such appointment.

The Tribunal upon hearing the submission advanced by the parties observed that the petitioner obtained 57.67 marks under the category PH(LV) and was shown in the list of candidates who have qualified for interview. It was also noticed by the Tribunal that the cut-off marks in respect of physically disabled (B/LV) is 63.67 and since the petitioner did not obtain the aforesaid marks, he was kept out of the zone of consideration for appointment. Though the petitioner approached the Tribunal for the aforesaid relief but the cause of action pleaded therein relates to keeping the application under Right to Information Act, in abeyance. By the said application, the petitioner invited the attention of competent authority to disclose the marks obtained by him in the written-test and the interview separately. But the

said application, as we are informed, has not been attended too, as no reply has been given in this regard.

At the first blush, the order of the Tribunal does not appear to contain any infirmity and/or illegality for the simple reason that the moment the petitioner scored lesser marks than the last cut-off marks in a particular category, no mandamus can be issued by the Court directing the authorities to give appointment to the petitioner. But the position would have been different when the petitioner intended to be aware of the marks obtained by him in the selection process and the authority did not disclose the same but acts contrary to the mandate behind promulgation of the Right to Information Act.

Though the remedy has been provided under the said Act yet we feel that the authority cannot keep the said application in suspended animation and, therefore, there is no fetter on the part of the Court to direct the authority to activate the process and act in terms of the mandate of the statutes being subservient thereto.

We, therefore, direct the respondent no. 4 herein to disclose the marks obtained by the petitioner in the written test as well as in interview separately within three weeks from the date of the communication of this order.

The time limit given hereinabove is peremptory and mandatory.

With these observations, the writ-petition being **WPST 76 of 2022** is **disposed of**. No order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

