

114 31.8.2023

Ct-08

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**MAT 1283 of 2023**

with  
I.A No. CAN 1 of 2023

**Sri Sujay Saha**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Soumen Kumar Dutta  
Mr. Subhas Jana  
Mr. Sabyasachi Bhattacharjee  
... For the Appellant

Mr. Kamal Mishra  
... For the Respondent nos.  
5,6,7,8 and 9

Mr. Supriyo Chattopadhyay  
Mr. Suman Dey  
... For the State

1. We have heard the learned counsel appearing for the parties.

2. The appellant is an approved Assistant Teacher of Canning David Sassoon High School (H.S). He is aspirant for the post of Assistant Headmaster of the said school.

3. The writ petitioner/appellant complained that though the District Inspector of Schools(S.E), South 24 Parganas vide a Memo dated 28<sup>th</sup> December, 2016 has accorded prior approval to fill up the said post but due to failure of the said authority the post concerned is still vacant. It is admitted position that the selection process was not complete. In order to ascertain the present position, we passed an order on 28<sup>th</sup>

July, 2023 directing the school to file an affidavit disclosing steps taken for constitution of the Selection Committee which, *inter alia*, should consist of Headmaster(expert) and nominee of Panchayat Samity. The school was further directed to disclose whether any letter addressed to an expert and to the Panchayat Samity for forwarding the name of its nominee to be a part of the Selection Committee was forwarded. Pursuant to the said direction, an affidavit has been filed on behalf of the respondent nos. 5 to 9. In the affidavit it is stated that “the selection process for the post of Assistant Headmaster was initiated by meeting dated 14<sup>th</sup> January, 2017 by the Managing Committee in terms of which subsequently a notice dated 04.04.2017 was issued for filling up vacant post of Assistant Headmaster of the said school”. However, the said meeting dated 14<sup>th</sup> January, 2017 could not be resolved and remained incomplete due to non-finalisation of names of an expert and one nominee of the Panchayat Samity. The said meeting was also incomplete as the said meeting was supposed to be presided over by the President of the Managing Committee being the respondent no. 6 who remained absent to the

said meeting. Because of the said reason, the selection process could not be concluded.

4. The fact remains that at the time of selection of candidates the nominee of the Panchayat Samity and an expert were not present. The necessity of such persons could not be dispensed with. The presence of an expert and an external person are for the purpose of transparency in the process of selection. There is no doubt that the Managing Committee was lethargic in completing the selection process. However, we feel that the learned Single Judge was justified in directing the Headmaster of the school to issue notice inviting applications from eligible candidates and to take follow-up steps to fill up the said vacancy within four weeks from the date of communication of this order.

5. It appears that pursuant to the order passed by the learned Single Judge a panel was prepared on 26<sup>th</sup> July, 2023.

6. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge.

7. On such consideration, the appeal being MAT 1283 of 2023 fails and stands dismissed.

8. In view of dismissal of the appeal nothing remains to be decided in the application for stay being CAN 1 of 2023 and the same is accordingly dismissed.

9. However, there shall be no order as to costs.

10. Affidavit of exception filed by the appellant is kept with the record.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

