

05. 20.11.2023
bd. Ct.15

WPA 19144 of 2014

Sri Sandip Mahato & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Subrata Ghosh ... for the petitioners.

The writ petition is taken up for consideration pursuant to the order dated 4th October, 2023 when the learned advocate representing the petitioners has again prayed for accommodation to effect service of notice upon the respondents. Such prayer made by the learned advocate for the petitioners is refused since the matter was taken up on 4th October, 2023 and the leave was granted to the learned advocate for the petitioners to effect service of notice by 13th October, 2023 and the matter was also fixed for hearing today, 20th November, 2023.

On perusal of the writ petition it appears that the petitioners have prayed for regularisation of their services under Jiaganj-Azimganj Municipality upon cancellation of the decision of the Principal Secretary, Municipal Affairs Department, dated 24th April, 2014. It is also prayed for in prayer (b) of the writ petition that if the regularisation is not possible petitioners should be allowed to participate in the selection process while such selection process would be initiated by the concerned respondent authorities for filling up the posts in the aforesaid municipality.

Petitioners moved a writ petition being WPA

21182 of 2013 before a coordinate Bench and the matter was disposed of vide order dated 20th December, 2013 thereby directing the Principal Secretary, Municipal Affairs Department, to take decision on the claim of the petitioners. In terms of the said order dated 20th December, 2013 order has been passed by the Principal Secretary which is under challenge. Such order dated 24th April, 2014 of the Principal Secretary, Municipal Affairs Department, is perused wherefrom it appears that petitioners were appointed as casual workers in the aforesaid municipality but nothing was shown before the Principal Secretary, Municipal Affairs Department, that the posts against which petitioners were appointed were sanctioned posts. It has also been recorded in the order dated 24th April, 2014 that necessary formalities for engagement of the petitioners were not fulfilled. In order to assess the right of the petitioners to be regularised certain departmental orders were considered by the Principal Secretary, Municipal Affairs Department, and ultimately concluded that the benefits of the Government Order No. 9008-F (P) dated 16th September, 2011 or Memo dated 23rd April, 2010, are not possible to be extended.

Nothing has been shown to this Court that any enforceable right has been accrued in favour of the petitioners warranting issuance of mandamus thereby directing the concerned respondent authorities to regularise their services.

In this regard reliance is placed on the judgment of the Apex Court reported in **(2006) 4**

SCC 1 (Secretary, State of Karnataka And Others. -vs- Uma Devi (3) & Others.).

In the aforesaid scenario the writ petition stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)