

Court No. 22  
**10.01.2023**  
(Item No. 62)  
(AB)

**IN THE HIGH COURT AT CALCUTTA**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

**W.P.A. 20614 of 2022**

Nawab Seraj  
VS  
The State of West Bengal & Ors.

Mr. Usof Ali Dewan  
Mr. Asif Dewan  
..... for the petitioner  
Mr. Pinaki Dhole  
Mr. Avishek Prasad  
.... For the State  
Md. Sarwar Jahan  
Sk. Nayeemul Haque  
.... For respondent Nos. 6 & 8

Affidavit of service filed in Court today, is taken on record.

The petitioner claimed to be an **Assistant Teacher** at **Fatullapur S. M. High School (H.S.), District – Mursidabad**. Pursuant to a notice dated July 29, 2022 issued by the Managing Committee, **Annexure P-1** to the writ petition, the petitioner was an aspirant and participated for the selection process for appointment of Assistant Headmaster at the relevant School. The respondent No. 9 ultimately became the first empanelled candidate in the said selection process. The petitioner became the second empanelled candidate.

Mr. Usof Ali Dewan, learned advocate appearing for the petitioner submitted that, taking into account the qualification of the petitioner as a whole it would appear that, he was a better candidate

in every respect than the respondent No. 9. After the said selection process was over the petitioner lodged a complaint before the respondent No. 3 at **pages 22 and 27** to the writ petition. The said representations are yet to receive attention of the State authority.

Mr. Sarwar Jahan, learned advocate appears for respondent Nos. 5, 6 & 8 submitted that, after complying all the necessary and statutory procedure the respondent No. 9 was selected as the first empanelled candidate and there was no infirmity at all in the selection process.

Mr. Pinaki Dhole, learned advocate appears for respondent Nos. 1 to 3.

Despite notice served through whatsApp at the whatsAap number mentioned in the cause title, the respondent No. 9 being the first empanelled candidate chose not to be represented.

Considering the rival submissions of the parties and considering the materials on record, to sub-serve justice, the respondent No. 3 is directed to consider the representations of the petitioner dated August 24, 2022 appearing at **page 22** to the writ petition being **Annexure P-4** thereto and the representation dated August 29, 2022 at **page 27** to the writ petition being **Annexure P-6** thereto after giving a prior hearing notice of at least seven days to the **petitioner, respondent No. 6** and the **respondent No. 9** and after giving them an

opportunity of hearing shall decide the issue strictly in accordance with law by passing its reasoned order/decision.

The entire exercise as directed above shall be carried out and completed by the respondent No. 3 positively within a period of eight weeks from the date of communication of this order. The respondent No. 3 then shall communicate its reasoned decision/order to the petitioner, respondent No. 6 and the respondent No. 9 positively within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merit of the claim made by the petitioner in any manner in its writ petition and the petitioner, respondent No. 6 and the respondent No. 9 shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent No. 3.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is made clear that, this order shall not create any equity or right in favour of the petitioner, in the event, the petitioner is not eligible to receive his claim strictly in accordance with law.

It is further made clear that, the appointment of the respondent No. 9 shall abide by the reasoned

order to be passed by the respondent No. 3 as directed above.

Mr. Sarwar Jahan, learned advocate appearing for respondent Nos. 5, 6 and 8 submitted that, the relevant panel for recruitment for the post of Assistant Headmaster at the relevant School is now still lying with the respondent No. 3 for approval and the School has not yet received any such approval from the respondent No. 3. The respondent No. 3 shall not send its approval to the relevant School for the recruitment of the respondent No. 9 for the post of Assistant Headmaster for the relevant School before disposing of the representations of the petitioner as directed above.

The petitioner is directed to communicate a copy of this order along with a writ petition with all its Annexure to the respondent No. 3 and the respondent No. 9. It is made clear that, the respondent No. 3 shall first has to be satisfied as to the notice served upon the respondent No. 9 to ensure his presence before it at the time of hearing. The respondent Nos. 5, 6 and 8 are also directed to communicate a copy of this order to the respondent No. 9 positively forthwith and shall file the relevant evidence in this regard before the respondent No. 3.

On the above terms, this writ petition being **WPA 20614 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**(Aniruddha Roy, J.)**