

September 25, 2023

ARDR (6)

MAT 1270 of 2012
+
CAN 1 of 2012 (Old CAN 7972 of 2012)
CAN 3 of 2014 (Old CAN 5421 of 2014)

Anteswar Barman
Vs.
Kshitendra Nath Barman & ors.

Mr. Ekramul Bari, Mr. S. M. Ali,	...for the Appellant.
Mr. Debabrat Saha Roy, Mr. Neil Basu, Mr. Sankha Biswas,	...for the respondent no.1.
Ms. Tapati Samanta,	...for the State.

The applicant/appellant was a prospective candidate for appointment as Group-D staff on Kuktikata Dharani Kanta High School, Kanfata. The appellant raised an objection that the Managing Committee has changed the date of appointment without intimation to the applicants including the present appellant, as a result whereof he could participate in the interview. It appears that the private respondent filed a writ petition in the year 2010 being WP 9082 (W) of 2010 questioning the decision of the authority to cancel the selection held in Group-D post.

Learned single Judge, while allowing the prayer, has recorded that in spite of repeated opportunity is being given to the District Inspector of Schools to produce the relevant records, the said authority had failed to produce the record and on the basis of the averments made in the writ petition, the prayer was allowed. This order was carried in

appeal in which at the stage of the appeal a coordinate Bench made the following observations:

“Let there also be an interim order directing the parties herein to maintain status quo as on the date with regard to the approval of the panel and joining of the candidate to the post in question.

We also make it clear that in the event, the panel in question has already been approved and anybody has joined the post in question then such approval of the panel and joining of the candidates to the post in question will abide by the result of this application”.

The matter was pending since then. On the last occasion, after hearing the learned counsel for the parties, this Court directed the District Inspector of Schools (S.E.) Cooch Behar to file a report in the form of an affidavit disclosing all relevant documents pertaining to the selection process and approval. The affidavit affirmed by the District Inspector of Schools, Cooch Behar (Secondary Education). In the said affidavit the District Inspector of Schools, Cooch Behar (Secondary Education) has stated that pursuant to the complaints received with regard to the irregularity of the Managing Committee regarding preparation of panel, explanation was called for from the School and the School in its communication has admitted that the Secretary of the Managing Committee of the School on his own changed the date of interview from 10th August, 2008 to 17th August, 2008 without holding a separate Managing Committee’s meeting and without seeking prior permission of the concerned authority. On the basis of such communication on 23rd February, 2010 the District

Inspector of Schools (Secondary Education), Cooch Behar has communicated its decision to the Secretary/ Headmaster of the school to the following effect:

“In reference to the above, the under signed has to inform him that there is a gross violation of G.O. No.1594 – SE (S) dt. 26-12-05 (Recruitment of non teaching staff) in the matter of change of date of interview held on 17-8-2008 instead of 10-8-2008 without prior permission of the authority concerned.

Hence, this office not in a position to accord prior approval of the above panel.”

Unfortunately, these records were not produced. The learned single Judge proceeded on the basis of the averments made in the writ petition and allowed the writ petition and on the basis of the order passed by the learned single judge the respondent was given appointment on temporary basis on 13th September, 2012.

Having regard to the fact that prior permission was not obtained from the District Inspector of Schools, the panel could not have been approved.

Under such circumstances, the appeal succeeds. The impugned order is set aside.

The appeal and the connected applications are all disposed of.

It is made clear that fresh selection process be held with prior permission of the District Inspector of Schools (Secondary Education). The petitioner may be participated in the fresh selection process by waiving the age bar, if any.

However, there shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)