

21.09.2023
Item No.6
Ct. No.17
S.A.

**WPA 20848 of 2022
with
CAN 1 of 2023
CAN 2 of 2023
(not in file)**

**Gobindalal Biswas & Ors.
-vs-
State of West Bengal & Ors.**

Mr. Kamalesh Bhattacharyya
Mr. Goutam Dey
Mr. Dipendu Sarkar
Ms. Ankita Ghosh
...for the petitioners
Mr. Arabinda Chattopadhyay, Sr. Adv.
Mr. B. P. Vaisya
Mr. Pinaki Bhattacharyya
...for DPSC, North 24 Parganas

The petitioners claim appointment against 797 anticipated vacancies which were not, admittedly, declared by the District Primary School Council, North 24 Parganas. I have been shown one judgement of Hon'ble Justice I. P. Mukerji where in the judgement of Hon'ble Justice Indira Banerjee in WP No. 22142 (W) of 2011 (Apu Dhar -vs.- The State of West Bengal and others) it was held that -

"In view of Rule 8(3), an obligation has been cast on the Primary School Council to make an estimate of vacancies and call for names from the employment exchange. However, the requirement to take all vacancies anticipated in the following year into account for determining the total number of vacancies is directory and not mandatory and failure to do so neither vitiates

the selection process nor gives any right to candidates who had participated in the selection process for filling up 3965 vacancies, to insist on their appointment to the additional vacancies, which had not been notified.”

Therefore, the allegation of the petitioners that 797 vacancies must have been declared and if those vacancies were declared the petitioners could be selected for the posts, cannot be accepted. I have also shown the challenge thrown to the observation quoted in WP No. 14229 (W) of 2012 referring to the decision of the court in WP No.22142 (W) of 2011. In the said appeal it has been held by the Division Bench that -

“If the appellants are directed to be considered for appointment on 797 anticipated vacancies, it would virtually mean that an appointment could be made on a post which had never been notified or advertised. The decision of the learned Single Judge is, thus, unexceptionable.”

Therefore, the petitioners claim that 797 vacancies were mandatorily to be included wherein they should have been considered, cannot be accepted by this court. The petitioners participated in 2006 recruitment process and it is not known to this court whether they participated in 2009 recruitment process also. However, we need not go to this question now.

I do not find any merit in this writ application and the same is dismissed.

All the connected applications are also dismissed.

(Abhijit Gangopadhyay, J.)