

Court No.22

12.6.2023

(Item No. 51)

(AB)

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

W.P.A. 22054 of 2018

Parimal Poddar

VS

The State of West Bengal & Ors.

Mr. Prahlad Chandra Ghosh

Mr. Swapan Kumar Chatterjee

.... For the petitioner

Mr. Jaharlal Dey

Mr. K. M. Hossain

.... For the State

Mr. Saibal Acharyya

.... For respondent Nos. 5 & 6

The petitioner contended that, he had qualified Bachelor of Arts with Honours in Geography from a recognized university.

Debipur R. L. Saha High School (H.S.), District Malda decided to appoint Assistant Teacher in Social Science sometime in December 2001 and invited application from eligible candidates **by way of publication of an open notice for appointment in local public places and at the notice board of the school.** The interview was held in January 2002 and the appointment letter was issued in favour of the successful candidates on or about January 16, 2002. The petitioner received an appointment letter and joined the school on January 23, 2002 and since then the petitioner has been working as such.

The petitioner then claimed approval from the State authority.

Mr. Prahlad Chandra Ghosh, learned counsel for the petitioner referring to a communication dated **July 17, 2018, Annexure P-5** at **page 30** to the writ petition submitted that, the petitioner had made a representation before the respondent No. 3 and the same has not yet received attention of the State authority.

Mr. Saibal Acharya, learned advocate appeared for respondent Nos. 5 and 6. Referring to a communication dated **August 9, 2018, Annexure P-6** at **page 41** to the writ petition he had submitted that, the relevant school authority had already forwarded the necessary documents and records before the respondent No. 3 recommending the prayer of the petitioner for approval at the post of Assistant Teacher in the School but no step had been taken.

Mr. Jahar Lal Dey, learned counsel appeared for respondent Nos. 1, 2 and 3 submitted that, since 1997 West Bengal School Service Commission Act had come into force operating the appointment in such type of situation and case. The relevant school sought for appointment by publishing a local notice and the appointment procedure adopted by the relevant school was not in compliance with the statutory provisions as laid down under the appointment Rules in the **West Bengal School Service Commission Act, 1997**. Mr. Dey submitted that, the appointment procedure, if any, as contended by the petitioner at

the relevant school was without the sanction of law and wholly illegal and not a regular appointment. He submitted that, there being no regular appointment the question of asking for any approval from the State authority did not and could not arise. He submitted that, the writ petition is totally devoid of any merit and liable to be dismissed.

Considering the rival contentions of the parties and considering the materials on record, it appeared to this Court that, the appointment procedure followed by the School by way of making a local publication at the local area and on the school notice board in the year 2001 after the 1997 Act being promulgated cannot be construed and contended to be a valid and lawful appointment procedure. The legal provisions were not followed. By seeking an approval by obtaining a sanction from the State authority on such type of illegal and irregular appointment would make the un-equals as equals and would be contrary to the law laid down and governing in the field.

In view of the above, this Court is of the firm view that, this writ petition is totally devoid of any merit and does not deserve any order at all save and except its dismissal.

This writ petition being **WPA 22054 of 2018** accordingly stands dismissed, without any order as to costs.

It is needless to mention that, though there was a direction by a co-ordinate bench dated November 22, 2018 for filing affidavit but the office report dated January 11, 2019 showed that no such affidavit was filed, however, considering the case made out in the writ petition, this Court is of the view that, the writ petition is devoid of any merit and accordingly stands dismissed.

(Aniruddha Roy, J.)