

18.5.2023

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WPA 21517 of 2019

Swarna Sekhar Kumar

Vs.

The State of West Bengal & Ors.

Mr. Samiran Giri

Ms. Madhumita Patra

... For the petitioner.

Mr. Prabir Dasgupta

Mr. Suman Dey

... For the University.

Mr. N. Chatterjee

... For respondent nos. 2 & 9.

Mr. Arijit Dey

... For respondent nos. 13, 14, 17 & 18.

Mr. Swapan Kr. Datta, AGP,

Mr. Tapas Kr. Mandal

... For the State.

In this writ petition the petitioner challenges some appointments made by Bidhan Chandra Krishi Viswa Vidyalaya ("the University", in short) at Krishi Vigyan Kendra (KVK in short) at Nadia following the Employment Notification DEE/KVK/01/2019. The petitioner had applied for the two posts, namely Farm Manager and Subject Matter Specialist. Although he appeared in the interview, he was unsuccessful in securing either position. In this writ petition, the petitioner seeks to highlight various alleged illegalities in the selection process.

It has been submitted by the learned advocate appearing for the petitioner that the University failed to obtain necessary permission from the State disregarding the suggestions of Indian Council of Agricultural Research (ICAR, in short) issued by a letter dated September 13, 2019. It has been further submitted that the Executive Council's approval was not obtained before issuance of the appointment letters. The conversion of posts of Subject Matter Specialists from Animal Science to Fishery to other subject was not permitted by ICAR but the recruitment was carried out upon conversion of posts. It is also submitted that the selection process is marred by nepotism and favouritism. The nephew of the Vice-Chancellor, son of the Dean of the Agricultural Faculty and two students directly associated with the Registrar of the University have been appointed.

It is highlighted that the State explicitly instructed the University not to proceed with the recruitment. Despite such order, the University has continued with the selection process.

The interview was scheduled for September 17, 2019 and on the same day the appointment letters were issued to the selected candidates, which clearly indicates favouritism. It is submitted that this Court should interfere with the selection process and set aside all the appointments.

The State in its affidavit, in fact, supported the stand of the petitioner. The State suggests that the approval from the State was necessary for conducting the recruitment process and in appointing the selected candidates. The entire selection process has been made in violation of a communication from the State Government dated September 12, 2009 as well as the communication from ICAR-Agricultural Technology Application Research Institute, Kolkata dated September 13, 2019 whereby the University was requested not to proceed with the selection process. It is the stand of the State that the Department of Agriculture by its letter dated September 23, 2019 sought an explanation from the Vice-Chancellor of the University for proceeding with the selection process. The State has found that the allegations levelled against the selection process are not without any basis.

Learned advocate representing respondent nos. 2 and 9 submits that the selection process has been carried in violation of a specific order from the Director of ICAR. The ICAR, initially, suspended the salary of the selected candidates. However, after receiving various representations from the University, it again started disbursing funds for their salaries.

Learned advocate representing the University also submits that the recruitment was carried out despite a prohibitory order from ICAR-Agricultural Technology

Application Research Institute, Kolkata and the State. It has also been submitted by the University that at the relevant point of time no approval of the Executive Council of the University was taken.

Learned advocate appearing for the private respondent nos. 13, 14, 17 and 18, in contrast, submits that the writ petition is not maintainable at the instance of the writ petitioner. The writ petitioner was an unsuccessful candidate and an unsuccessful candidate cannot challenge the selection process.

He further submits that the petitioner was aspirant for two posts namely, Farm Manager and Subject-matter Specialist and therefore, he cannot maintain the challenge with regard to other posts. It is the submission of the learned advocate that the State Government has got no role in the matter of appointment at a KVK under the University. KVKs are fully funded by ICAR and the State does not have any involvement. Therefore, approval of the State Government was not at all necessary. It has been further submitted that since these appointments are not in terms of Section 33 of Bidhan Chandra Krishi Vidyalaya Act, 1974. The approval of the Executive Council was also not necessary. It has, further, been pointed out that despite their initial objection, ICAR has been regularly paying salary of the private respondents

implying that ICAR has approved the entire selection process.

It appears that the projects of KVKs under the University are governed by a Memorandum of Understanding between Indian Council of Agricultural Research and the University.

The agreement does not provide for any role to the State in the operation or administrative control of the KVKs.

Memorandum of Understanding makes it clear that the entire project is to be funded by Indian Council of Agricultural Research and Clause 8 (ii) of the said memorandum also makes it clear that all staff of KVK shall be borne on the establishment of the University. The administrative control over the staff employed under the scheme shall vest with the University. The placement of staff working in the project after the termination of the project shall be the sole responsibility of the University without having any liability on the Indian Council of Agricultural Research.

Since Memorandum of Understanding does not ascribe any role to the State, I am of the view that approval of the State was not necessary in the selections at KVK, Nadia. At the same time I am of the opinion that the selection process should have been conducted with the involvement of the Executive Council of the University. The Memorandum of

Understanding vests the University with the administrative control over the KVKs and the Vice-Chancellor should not have conducted the selection bypassing the Executive Council of the University.

In view of aforesaid findings, I dispose of this writ petition granting liberty upon the Executive Council of the University to take appropriate steps in accordance with law regarding the relevant selection process.

Accordingly, **WPA 21517 of 2019** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)