

03. 19.01.2023
Ct. No.6
Tanmoy

MAT 1753 of 2022

Brusa Bhanu Bal
-Versus-
The Kolkata Municipal Corporation & Ors.

With
IA No: CAN/1/2022

Mr. Upendra Roy, Adv.,
Ms. Kanchan Roy, Adv.
...for the appellant.

Mr. Ranajit Chatterjee, Adv.,
Mr. Arijit Dey, Adv.
...for the Kolkata Municipal
Corporation.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

This appeal is directed against a judgment and order dated September 5, 2022, whereby the appellant's writ petition being WPA 20923 of 2021, was dismissed by a learned Single Judge.

The appellant is an employee of Kolkata Municipal Corporation (KMC). His grievance before the learned Single Judge was that in spite of his name being included in a promotion list published by KMC on March 4, 2016, he was not granted promotion.

The learned Judge noted that the requisite qualification for being promoted is that the candidate should have passed the West Bengal Board of Secondary Education or equivalent of it (Class-X). The appellant/writ petitioner was unable to produce any certificate to show

that he has passed Class-X examination. He could only produce a document showing that he had appeared in the Board of Secondary Education, Orissa. No certificate of the appellant passing Class-X examination could be produced.

Accordingly, the learned Judge dismissed the writ petition.

Being aggrieved, the writ petitioner is before us by way of this appeal.

We find no apparent infirmity in the order of the learned Single Judge. The writ petitioner could not satisfy the learned Single Judge that he had the requisite educational qualification to be entitled to be promoted.

Further, Mr. Roy, learned Advocate appearing for the appellant, tells us that during the pendency of this appeal, on January 11, 2023, the KMC has cancelled the concerned promotion list. If that be so, that would furnish the appellant with a fresh cause of action. He would be at liberty to challenge such cancellation before the appropriate forum, in accordance with law, if he is so advised.

Mr. Chatterjee, learned Advocate appearing for the KMC says that he has no instructions in that regard.

We are not inclined to consider the legality or otherwise of such cancellation in this appeal as the same was not a subject-matter of the writ petition.

Since we have not called for affidavits, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being MAT 1753 of 2022 and the connected application being IA No: CAN/1/2022 are accordingly disposed of.

Let urgent photostat certified copy of this order, if applied for, be made available to the parties, upon compliance with all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)