

12.04.2023
Item No. 09.
Court No.6.
S. De

**M.A.T. 1826 of 2022
with
I.A. No. CAN/1/2022
Ramesh Mondal & Ors.
Vs
The State of West Bengal & Ors.**

Mr. Raghunath Chakraborty
Ms. Sabnam Sultana,
...for the appellants.

Mr. S.N. Mookherjee, Ld. Advocate General,
Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly,
Mr. Yash Singhi,
...for the State.

Report in the form of affidavit filed by the respondent no.2 was taken on record on March 22, 2023.

Today, learned Advocate General appears for the State and draws our attention to paragraphs 4 to 10 of the said report.

One of the issues and in our opinion the most important one was how the OMR sheets could have been lost. It appears that the parties were not properly informed. In paragraph 9 and the sub-paragraphs thereunder of the said report, it is stated as follows :-

“9. In reference to the sixth
query of this Hon’ble Court, that

is, “It appears from the order sheet dated December 27, 2022 issued by the Secretary, Panchayat and Rural Development Department, Government of West Bengal, copies where of have been handed up to court by Mr. Basu Mallick that OMR sheets have already been evaluated. If that be so, why, with the help of the concerned independent agency, the recruitment process cannot be concluded instead of holding a recruitment process de novo?” I say the following :

- a. All the OMR sheets are intact, preserved in sealed Trunks and kept in Berhampore Treasury-1 strong room under double lock. It may be noted that these OMR sheets are lying in the Treasury for nearly 5 years and are intact. Allegation that the OMR sheets are lost or cannot be found is incorrect, untrue and accordingly denied.

- b. The scoresheet which was prepared based on the OMR sheets of written test, were neither found in file, nor in Treasury Double Lock, where the other examination documents are preserved securely. The same would be evident from the letter of the District Magistrate, Murshidabad dated 18th April, 2022.
- c. It is germane to mention here that the selection process is done based on evaluation of OMR sheets, computer test for certain category and viva-voce of candidates, thus the draft score sheet was in no way the final merit list. Rest of the process (i.e. Computer test & Viva Voce) could not be held due to the imposition of austerity measures [vide No.4201-F(P)/FA/O/2M/71/18(NB) dated 02nd July, 2018 by Finance Department], delay in obtaining approval from Panchayat & Rural Development Department [Memo. No.7115/PN/O/III/2A-66/2018

Dt. 20th December, 2021 from P&RD], expiry of term of the District Level Selection Committee in September 2018 and delay in reconstitution of the same in 29th December, 2022. Thus, long time has elapsed for re-starting the recruitment process.

- d. During this period the Treasury strong room has been repeatedly opened and closed on numerous occasions for valid administrative reasons as the concerned Treasury strong room is not exclusively dedicated to preservation of documents related to the examination in question only, but also utilized for storing materials relating to school examination, election and the like. It may be noted that these OMR sheets are lying in the Treasury for nearly 5 years.
- e. Keeping these facts in view, for ensuring transparency and public confidence it would be prudent to start the recruitment process de-

novo and the District Magistrate and Collector, Murshidabad vide Office Memo. No.666/P&RD/Msd. Dated 18th April, 2022 has sought clarification on cancelling the present examination and starting the recruitment process de-novo. Copy of the Memo dated 18th April, 2022 is annexed thereto and marked as R9.

- f. In compliance to the Solemn Orders of the Hon'ble High Court dated 3rd November, 2022 and 11th November, 2022 the Secretary to the Government of West Bengal, Panchayats & Rural Development Department has passed an Order dated 27th December, 2022 wherein it inter alia issued direction to the District Magistrate, Murshidabad to start the recruitment process de-novo and submit compliance report. The Order dated 27th December, 2022 by the Secretary, to the Government of West Bengal, Panchayats and Rural

Development Department is
annexed hereto and marked as
R10.”

In paragraph 10 of the said report it has been stated that the State respondents will take necessary steps towards recruitment in various posts of Panchayat bodies in the district of Murshidabad as per the direction passed by this Court.

Learned Advocate General, in his usual fairness, says that if the Court directs the recruitment process that had been initiated earlier in 2017, to be carried to its logical conclusion, the same can be done. No fresh recruitment process need be initiated.

We appreciate such fair stand of the State. We are of the view that since 1,20,633 aspiring candidates participated in the selection process and in the written examination and since the OMR sheets are intact, the process that was earlier initiated should be carried to its logical inclusion in accordance with the applicable rules and law. Any process, if remains to be undertaken shall be undertaken as per the rules, including holding viva-voce and skill test.

We enquired from Mr. Mookherjee, learned Advocate General as to within what time period the selection process may be completed. On instruction, he says that four months would be a reasonable time

period. Hence, it is expected that the entire process shall be completed within four months from date.

This order must be made known to the candidates who participated in the selection process by way of wide publication in the manner the State administration may deem fit and proper.

No further order need be passed in this appeal. The appeal being MAT 1826 of 2022 stands disposed of along with the connected application being I.A. No. CAN 1 of 2022.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)