

03.10.2023.
Item No. 11.
Court No. 1
ap

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CIVIL APPELLATE JURISDICTION
(Appellate Side)

M.A.T. No. 13 of 2019

Soma Jana @ Payra
Versus
The State of West Bengal & Ors.

Mr. Sudhindra Das.

...For the appellant.

Mr. Subir Kumar Saha, AGP,
Mr. Momenur Rahman.

....For the State.

1. The matter was listed in the warning list since last week.
2. The instant appeal is directed against the judgment and order dated 22nd April, 2019 passed by a learned Single Judge of this Court whereby the writ petition was dismissed both on merits and on the ground that the petitioner has no locus standi to challenge a recruitment process of non-teaching staff instituted by Baneswar Sarathibala Mahavidyalaya.
3. The issue on merits was whether the advertisement dated 1st March, 2020 by a College based on two Notifications of the State dated 25th August, 2017 and 15th February, 2018, dispensing with the requirement of a recommendation of the College Service Commission under Section 10 of the

West Bengal Universities and Colleges (Administration and Regulation) Act, 2017, was lawful or legal.

4. Section 10 (supra) mandates that the recruitment of teaching and non-teaching staff must be made on the recommendation of the College Service Commission.

5. The Commission at the relevant point of time was yet to be constituted. In view of serious difficulties being faced in administration and running of Colleges, the State was compelled to issue the aforesaid two Notifications dated 25th August, 2017 and 15th February, 2018 to dispense with the requirement and recommendation of the Commission before recruitment of staff in a Government Aided College.

6. It is based on the said two Notifications that a recruitment of non-teaching staff was initiated by the College and completed by advertisement dated 1st March, 2019.

7. The Court below found sufficient justification for issuance of the two Notifications and that they do not dilute the mandate under Section 10 (supra) as a whole. The Notifications were found to be at best an accommodatory nature to facilitate one of the College under the State in the absence of the College Service Commission to function smoothly.

8. This Court finds no infirmity whatsoever in the decision of the learned Single Judge of this Court.

9. What is, however, most curious is the locus standi of the petitioner. She was neither a candidate, who participated in the selection process nor had intended to do so.

10. She had clearly no locus standi whatsoever to maintain or file the said writ petition. The finding of the Court below on the absence of locus of the petitioner is also sustainable and well placed.

11. In view of the above, the impugned judgment and order dated 22nd April, 2019 calls for absolutely no interference and is upheld.

12. Hence, M.A.T. No. 13 of 2019 shall stand dismissed.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)