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09.08.2023
Ct. No.2
b.das

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

WPA No. 1744 of 2023

Amit Mandal
Vs.
The State of W.B. & Ors.

Mr. Pretom Das
Mr. S. Guha Roy ...for the petitioner.

Mr. Subir Kr. Saha
Mr. Momenur Rahman ...for the State.

Affidavit of service filed by the petitioner is
taken on record.

Heard learned counsels for the parties.

Pursuant to a recruitment notification inviting
online application for recruitment to the post of
Homeopathic Pharmacist under the Health and
Family Welfare Department, Government of West
Bengal, the petitioner applied for appointment to
the said post and was allowed to participate in the
interview and dictation which were scheduled to be
held on 16th November 2022.

Though the petitioner appeared for the
interview, his appointment was not considered by
the authority.

Learned counsel for the petitioner takes this Court to the relevant advertisement for recruitment which demonstrates that 34 vacancies were declared for the post in the scheduled caste category which was subsequently modified to 32 Scheduled Caste vacancies and 2 Scheduled Caste vacancies for persons with disability.

The panel list of selected Scheduled Caste candidates indicates that 32 candidates were selected and the remaining two posts were vacant due to non-availability of Scheduled Caste candidates with disability.

The petitioner refers to a notification issued by the Labour Department, Exempted Category Cell, Government of West Bengal on 8th July, 2019, Clause 4 of which is reproduced below:

“4.No curtailment of existing percentage of reservation for Scheduled Caste can be made in this regard. Hence, if no suitable SC candidate with benchmark disability is available for filling up of 32nd vacancy, then said vacancy will first be filled up by a SC candidate with other benchmark disabilities by interchange among the categories as mentioned in para 2, (a), (c) and (d) with explicit and prior permission of ‘appropriate Government’. If there is no person with disability available for the relevant vacancy in that year, the employer, then only, shall fill up the vacancy by appointment of a SC person without any disability with approval of the ‘appropriate Government’.”

The petitioner seeks a direction upon the authority to grant appointment in his favour in terms of this notification.

The petitioner submitted a representation in this regard before the concerned authority on 23rd February, 2023, which is yet to be considered.

The petitioner prays for a direction upon the respondents to consider the representation at the earliest.

It is submitted on behalf of the respondents that the 1st respondent be directed to consider the representation, in accordance with law.

In view of the above, the writ petition is disposed of directing the 1st respondent to consider and dispose of the representation submitted by the petitioner dated 23rd February, 2023 within four weeks from the date of communication of this order upon affording reasonable opportunity of hearing to all the affected persons including the petitioner, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereafter.

With the above observations and directions the writ petition is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

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

(Suvra Ghosh, J.)