

23.04.2024

**Sl. No.13.
Ct. No. 35
s.g.**

WPA/2635/2015

Purnendu Mondal

Vs.

The State of West Bengal & Ors.

Mr. Achintya Kr. Mazumdar,
Mr. A. Adhikary,
....for the petitioner.

Mr. Bhaskar Prasad Vaisya,
Mr. Suman Dey,
....for the State.

The petitioner is aggrieved that the Commissioner of School Education of West Bengal having held in its order dated 25th October, 2013 regarding eligibility of the writ petitioner as a land loser to be appointed under EC category, in the process of the appointment initiated in the year 1999, such decision of the Commissioner of School Education was not complied with depriving his rights.

The petitioner disputes that he should have been considered eligible and appointed. He is aggrieved also about the alleged discrimination perpetrated against him, by disallowing his candidature, whereas giving appointment to the similarly placed other persons.

Mr. Achintya Kr. Mazumdar representing the writ petitioner is seeking adequate benefit for his client, that the date of appointment of the writ petitioner be reckoned with effect from the date when other similar candidates were

appointed, pursuant to the selection process as initiated by Murshidabad District Primary School Council in the year 1999.

The name of the writ petitioner was sponsored at the relevant point of time as a general category candidate by the concerned employment exchange. However, the writ petitioner claims he should have been treated as a land loser and EC category candidate in the process. Letter written by the District Magistrate, Murshidabad to the Chairman by the District Primary School Council, Murshidabad dated 26th March, 1999 has also been relied on to submit that the authorities have duly informed about the grant of EC category reservation to the writ petitioner pursuant to his being a land loser.

The writ petitioner is aggrieved that though the candidate who are similarly placed like him were appointed, his candidature has been turned down by the authority. Mr. Mazumder on behalf of the writ petitioner has sought for adequate relief. That, the writ petitioner was initially sponsored by the Employment Exchange, as a general category candidate, is the submission of Mr. Bhaskar Prasad Vaisya, appearing for the State respondent. It is only in the year 2001, that the authorities have come to know about the writ petitioner having been granted EC category reservation, being land loser.

Therefore, according to the said respondent, there would not be any occasion for

it to consider reservation of category of the writ petitioner, at that time when the selection process was undertaken.

It appears from the order of the Commissioner of School Education, West Bengal dated 25th October, 2013 that the same has noted its findings that the writ petitioner was similarly placed as other three persons who have got appointed in the said selection process of 1999, as EC category candidates. Also that the petitioner's case should have been considered as a land loser and eligible under EC category at that point of time, which was not done. The Commissioner directed for taking appropriate step and pursuant to the same, the writ petitioner has been appointed on 21st February, 2014.

The appointment as above has been accepted by the writ petitioner unconditionally and after acceptance of the appointment unconditionally, the writ petitioner cannot now come up in protest of the order of the Commissioner of School Education, West Bengal, on the ground of its inappropriate considerations. After accepting implementation of the order dated 25th October, 2013, the writ petitioner cannot be allowed to move away from its original stand. The petitioner cannot approbate and reprobate, at the same time. This Court finds that after being appointed in terms of the said order, the writ petitioner shall not have any further ground to challenge the same, in this case.

On this ground, this Court finds no merit in the writ petition and the same is dismissed.

(Rai Chattopadhyay, J.)