

Court No. 2

21.6.2024

(Item No. 5)

(AB)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**C.P.A.N. 341 of 2024
in
W.P.A. 13007 of 2022**

Md. Abdul Mozid Biswas

VS

Dr. Partha Karmakar,
The Secretary, West Bengal Board
of Primary Education

Mr. Partha Chakraborty
Muhammad Obaid

.... For the petitioner

Mr. Subir Sanyal

Mr. Ratul Biswas

Mr. Kaushik Chowdhury

.... For the contemnor

This is hearing of a contempt application upon affidavits.

On the prayer of Mr. Partha Chakraborty, learned advocate for the petitioner, the affidavit-in-reply affirmed on June 18, 2024 on behalf of the petitioner is taken on record.

This is a contempt proceeding arising from an order dated **January 31, 2023, Annexure – A** at **page 17** to the contempt application.

The petitioner alleged that the direction of the order was not complied with and accordingly the contempt application was filed. From the order dated **April 19, 2024** it appears that, a compliance report was filed under the signature of the Secretary, West Bengal Board of Primary Education. The report shows that the direction was then carried out partially to the

extent ascertaining the merit position of the petitioner.

When the contempt application was moved the Court was informed that the alleged contemnor No. 1 was no more holding the respective chair against which the contempt was charged. Accordingly, alleged contemnor No. 2 (**Ranjan Kumar Jha**) was impleaded, the new incumbent at the chair.

The affidavit filed by said Ranjan Kumar Jha in the contempt proceeding, inter alia, states:

“2 (c) On scrutiny it appears that the total score of the petitioner is 26.693 whereas the score of the last merit listed candidate in the OBC-A category under his respective medium is 27.613. Therefore, the score of the petitioner was much less than the last merit listed candidate in the OBC-A category under his respective medium and therefore, he could not come within the zone of consideration for empanelment after de-categorization.

4 (c) As per the provision of Rule 8 of the Recruitment Rules, 2016 as amended from time to time, panel is to be prepared according to descending order of merit as per existing vacancies category wise, medium wise.

4 (d) As already stated hereinbefore, the petitioner scored 26.693 marks whereas the score of the last merit listed candidate in OBC-A category under his respective medium is 27.613. Therefore, according to merit, the petitioner does not come within the zone of consideration for empanelment. Consequently, in accordance with and in compliance with the solemn order dated 31st January, 2023 passed by this Hon’ble Court directing to prepare of the fresh panel showing

the position of the petitioner strictly in terms of the merit and in accordance with law could not be prepared by the Board.”

In view of the said statements made on affidavit by the alleged contemnor, it appears to this Court that, since the petitioner has not come within the consideration zone the question of including the petitioner in the panel did not and does not arise. The petitioner at this juncture alleges that, the order of this Court dated **January 31, 2023** directs the alleged contemnor to prepare a fresh panel after de-categorization showing the position of the petitioner strictly in terms of merit and in accordance with law but this direction has not been complied with.

After considering the rival contentions of the parties and upon perusal of the materials on record, this Court is convinced that the necessary de-categorization has duly been done as directed by the Court. After causing such de-categorization the petitioner could not come, on merit, within the consideration zone. This Court is thus, of the firm view that, there is no requirement of any preparation of fresh panel by showing the position of the petitioner as the petitioner no way has come within the consideration zone.

The Court of contempt will examine whether there is any willful or deliberate violation of any direction or order of the Court. In the facts of this

case, the alleged contemnor has performed its obligation by complying the direction of this Court by causing the necessary de-categorization as directed by the Court. Since, the petitioner after de-categorization did not come within the consideration zone, for all practical purpose, there was no requirement of preparing any fresh panel.

For the foregoing reasons and discussions this Court is of the firm view that, the direction of this Court dated **January 31, 2023** stands complied with and there is no violation of such direction.

Accordingly, this contempt proceeding being **C.P.A.N. 341 of 2024** stands **dropped** and **closed**.

The contempt application consequently stands disposed of.

(Aniruddha Roy, J.)