

02.05.2024
Court No.13
Item No.66
AP

WPA 6080 of 2024

**Soumyajit Mukherjee
Vs.**

**National Institute of Cholera and
Enteric Diseases (NICED), Kolkata and Ors.**

Mr. Rachit Lakhmani
Mr. Dip Jyoti Chakraborty
Mr. Joy Chakraborty
Mr. Ranjit Malakar

... For the Petitioner.

Mr. Tilak Mitra
Mr. Abhik Sarkar

... For the Respondents.

1. The petitioner challenges the recruitment of the private respondent, Anirban Saha, in the National Institute of Cholera and Enteric Diseases (NICED), Kolkata, for the post of Technical Assistance Life Science.

2. It is submitted that the marks awarded to the private respondent against experience are inappropriate. Most of the private respondent's experience towards the fieldwork is in the sales department of a company, which has no R&D unit in Kolkata. The petitioner has more experience in R&D and should have been given more marks than the private respondent.

3. This Court is of the view that under Article 226 of the Constitution of India a writ Court does not sit in appeal over awarding of marks that are within the realm of subjective satisfaction of the recruiting authority. Admittedly, in terms of the settled law of the land only 5

out of 100 marks have been allotted towards a subjective averment of research and field experience, rest of the 95 marks were towards written test.

4. The private respondent got more marks than the petitioner in the written test. He also got more marks in the subjective area i.e. 4 out of 5. The petitioner got 3 out of 5. The writ Court does not and cannot sit in appeal on the limited area of subjectivity allowed to a State Authority or its instrumentality.

5. In these circumstances, no interference is called for with the recruitment of the private respondent by the NICED. The writ petitioner is a highly qualified and capable scientist and will definitely succeed in any other recruitment process.

6. With the aforesaid observations, the writ petition is disposed of.

7. There shall be no order as to costs.

8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)