

12. 01.03.2024
bd. Ct.15

WPCRC 205 of 2016
in
WPA 12860 of 2010
IA No. CAN 1/2016
(Old No. CAN 10323/2016)
CAN 3/2020
(Old No. CAN 1367/2020)

Asit Kumar Ghosh

-vs-

Mrs. Purabi Biswas Dey & Ors.

Mr. Saibal Acharya
Mr. Debabrata Mondal
Ms. Sreetama Neogi ... for the applicant.

Md. Sarwar Jahan
Sk. Nayeemul Haque ... for the alleged
contemnor No. 4.

Mr. Mrinmoy Bhattacharya
Mr. Srinath Singha Roy ... for the alleged
contemnor No. 2.

The contempt application is taken up finally
in presence of the learned advocates representing
the applicant and the alleged contemnors.

Mr. Acharya, learned advocate representing
the applicant submits that pursuant to the order
dated 15th October, 2015 passed by the coordinate
Bench the panel which was submitted on 8th
December, 2008 needs to be approved without
raising any point relating to failure on the part of
the school authority to submit supporting
documents relating to the said panel. According to
the applicant in terms of the order dated 15th
October, 2015 passed by the coordinate Bench by
this time the panel prepared for recruitment for the

post of Group-C in the school in question ought to have been approved.

On behalf of the alleged contemnors specially the contemnor no. 4 an affidavit filed by the Teacher-in-Charge of the school affirmed on 17th August, 2023 is relied upon. On perusal of the said affidavit it appears that in terms of the order of a coordinate Bench dated 4th August, 2023 an effort was made to hold a meeting of the present managing committee of the school for taking decision on the panel in question dated 23rd October, 2008. It is averred in paragraph 3 of the said affidavit that though panel in question was submitted before the concerned District Inspector of Schools (SE), Murshidabad, but certain documents relating to the said panel were lost. In paragraph 5 of the said affidavit it is also averred that the meeting was held on 7th August, 2023 wherein excepting Teacher-in-Charge all other members of the Managing Committee did not agree to approve the panel from the end of the school authority since on search not even copies of the original documents relating to the said panel were found.

This Court has heard the learned advocates representing the applicant as well as alleged contemnors. In the contempt application violation of the order dated 15th October, 2015 passed by the coordinate Bench has been alleged. On perusal of the said order dated 15th October, 2015 it appears that by presenting the connected writ petition being WPA 12860 of 2010 the order of the concerned District Inspector of Schools dated 17th March,

2010 was assailed since by the said order dated 17th March, 2010 the concerned District Inspector of Schools refused to approve the panel on the ground that relevant documents were not supplied by the school authority while submitting the panel. Previously due to inaction on the part of the concerned District Inspector of Schools another writ petition was filed being WPA 20761 of 2009 and the same was disposed of vide order dated 21st December, 2009 by the Hon'ble Justice Dipankar Dutta directing the concerned District Inspector of Schools to take appropriate decision regarding approval/disapproval of the panel that was prepared pursuant to the interview conducted on 25th October, 2008 and to pass appropriate decision. Pursuant to such direction dated 21st December, 2009 order was passed by the concerned District Inspector of Schools on 17th March, 2010 refusing to approve the panel which was challenged in the connected writ petition being WPA 12860 of 2010.

In the order dated 15th October, 2015 passed by the coordinate Bench in connection with which present contempt proceeding has been initiated, the decision of the concerned District Inspector of Schools dated 17th March, 2010 was set aside on the ground that while passing order by the District Inspector of Schools the panel has been wrongly described as a panel for appointment for the post of Group-D. However, on factual consideration of the writ petition it was found by the coordinate Bench that the panel in question was prepared for recruitment in the post of Group-C. That being the

reason the decision of the District Inspector of Schools dated 17th March, 2010 was set aside thereby directing the concerned District Inspector of School being the alleged contemnor no. 4 to accord approval to the panel in question in accordance with law within a specified time.

In terms of the order dated 15th October, 2015 the alleged contemnor no. 4 was required to take steps for approval of the panel in question following the relevant Recruitment Rules. It is the specific contention made on behalf of the alleged contemnor no. 4 that approval could not be accorded to the panel in question since relevant documents relating to the said panel which were required to be submitted by the school authority seeking approval were not accompanying with the panel in question. Such stand of the alleged contemnor no. 4 has been corroborated vide statements made by the Teacher-in-Charge of the school in question by affirming affidavit on 17th August, 2023. It is also submitted on behalf of the alleged contemnor no. 4 that while steps were taken by the concerned District Inspector of Schools to approve the panel not even the decision of the Managing Committee approving the panel in question was found.

In view of inability on the part of the school authority to forward the panel along with necessary documents it cannot be inferred that there was willful and deliberate violation on the part of the concerned District Inspector of Schools being the alleged contemnor no. 4 of the direction as contained in the order dated 15th October, 2015.

Accordingly, the contempt application stands dismissed. Rule stands discharged. Connected applications, if pending also stand dismissed.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)