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10.05.2024
Ct. No. 11
Jayanta

**MAT 533 of 2024
with
IA No. CAN 1 of 2024
with
IA No. CAN 2 of 2024**

**West Bengal Board of Primary Education & Ors.
vs.
Sumanta Koley & Ors.**

Mr. Subir Sanyal
Mr. Saikat Banerjee
Mr. R. Biswas
Mr. Koushik Chowdhury

..... For the Appellants/Board.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Payel Shome
Ms. Sampriti Saha
Mr. Avijit Kar
Ms. Mohona Das

..... For the Respondents.

Ms. S. Nandy

..... For the Respondent No. 4.

Mr. Sirsanya Bandopadhyay
Ms. Debopriyo Karan

..... For the State.

Affidavit-of-service filed by the appellants be kept on record.

The present appeal has been preferred challenging an order dated 2nd February, 2024 passed by the learned Single Judge in the writ petition being WPA 2561 of 2024. In connection with the appeal, the appellants have preferred an application for condonation of delay being CAN 1 of 2024. Considering the averments made in the same, we are satisfied with the explanation given towards the delay in preferring the appeal.

Accordingly, such delay is condoned and the application being IA No. CAN 1 of 2024, is disposed of.

Mr. Sanyal, learned advocate appearing for the appellants submits that the recruitment process is already over and the merit list has been published on 31st January, 2024. In such fact situation, it would be an impossibility to comply with the interim directions passed by the learned Single Judge by which the appellants have been directed to publish the marks and ranks of the writ petitioners/ respondents herein treating them as D.El.Ed. Board certificate holders.

He further argues that the respondents having two years D.El.Ed. training qualification and having chosen to apply for the posts in the recruitment process of 2022 by citing their B.Ed. qualification and D.El.Ed. (NIOS) qualification, cannot resile from their own stand. Furthermore, in spite of opportunities granted, the respondents did not avail the option to edit and alter their qualification. Such arguments, as advanced, were glossed over by the learned Single Judge. Such infirmity warrants interference of this Court.

Mr. Bhattacharya, learned Senior advocate appearing for the writ petitioners/respondents submits that the order impugned in the present appeal was passed on 2nd February, 2024 and subsequent thereto, by a notice dated 19th February, 2024 and in compliance with the order impugned, the respondents were asked to attend the hearing along with all relevant documents. In view of such steps taken, the appellants cannot turn back and challenge the order impugned.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The arguments of the appellants were rightly discounted by the learned single Judge and the interim order was passed upon arriving at a, *prima facie*, finding the respondents cannot be deprived from the chance to seek public employment opportunity, when they are qualified to do so. Such interim direction was passed appreciating that the grant of such protection would not cause a greater loss and prejudice to the appellants than the loss and prejudice the absence thereof would likely be caused to the writ petitioners.

In view thereof and as the interim order, needless to observe, would be subject to the final result of the writ petition, we are not inclined to interfere in the present appeal.

Accordingly, the appeal and application being MAT 533 of 2024 and the stay application being IA No. CAN 2 of 2024, are dismissed.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)