

MAT 934 of 2019

**The State of West Bengal & Ors.
Vs.
Suman Talukdar & Ors.**

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Mr. Arjun Ray Mukherjee
Mr. Subhendu Sen Gupta
... For the State Appellants

Mr. Sandip Kumar De
Mr. Abhijit Sarkar
... For the Respondent nos. 2 to 4

Mr. Dibyendu Chatterjee
Mr. Rahul Deb Goenka
Ms. Satabdi Das
... For the Private Respondent

1. We have heard the learned counsel appearing for the parties.
2. Mr. Arjun Ray Mukherjee, learned counsel representing the appellants, has placed the order passed by the District Inspector of Schools (SE), Dakshin Dinajpur under memo dated 20th December, 2013 where the District Inspector of Schools (S.E) directed the school authority to recast the first panel by correcting the same and assign the reason for delay in submission of 1st panel in writing. This order was set aside by the learned Single Judge on the ground that after the Additional District Inspector (ADI) had given the permission on 4th July, 2012 to hold a fresh interview as per the Rules, the District Inspector of Schools (S.E) could not have passed a direction for recasting of the first panel. However, it appears

from the order passed by the District Inspector of Schools that even it is assumed that ADI had the requisite power to call for a fresh interview as per the Rules, it was subject to considering serial nos. 1 & 2 of the note-sheet on which reliance has been placed by the writ petitioner which, inter alia, includes the academic qualification of Ananta Paul in M.Sc and certain other criterion. Even if we assume that the delay in sending the panel may not be a fatal provided the selection procedure was transparent, the matter is required to be looked into as the ADI had made it clear in the note-sheet that the document of Ananta Paul should be considered when the fresh interview would be held pursuant to the permission granted by the ADI.

3. We are not impressed with the submission that ADI could not have passed a direction for fresh interview as we do not find any mala fide exercise of power by the said ADI. It was also not possible for the school to know that the ADI may not have the authority to grant such permission and the District Inspector of Schools is the only authority who would be in the given facts and circumstances could grant permission for fresh interview. However, the fact remains that in the second

interview, the school is required to follow the direction of the ADI. It was thus incumbent to D.I to consider the list forwarded by the school for the purpose of ascertaining whether the conditions of serial nos. 1 & 2, as indicated by the ADI for fresh interview as per the Rules. However, it appears that Sri Ananta Paul did not challenge his exclusion from the panel. Even it is assumed that Suman may not be the first in the merit list can his candidature and appointment be considered ignoring the facts mentioned by the ADI ?

4. Mr. Dibyendu Chatterjee, learned counsel representing the writ petitioner, has submitted that the panel was approved by ADI on 10th September, 2012 and subsequently it was cancelled on 11th September, 2012. This order of cancellation was set aside by Justice Debasish Kar Gupta, as His Lordship then was, with a direction upon the District Inspector of Schools (SE) to take a fresh decision with regard to the panel prepared for appointment in the post by passing a reasoned order. This reasoned order was the subject matter of challenge before the learned Single Judge.

5. In view of the order passed by Justice Kar Gupta, the issue was reopened and a afresh decision was taken by the D.I and accordingly, no

importance can be attached to the order passed by the ADI in approving or cancelling the panel. It is important that in academic matters there should be transparency and the best candidates should be selected.

6. The School authority is directed to provide all relevant records within 10 days from date.

7. Accordingly, we direct the Principal Secretary, Education Department, to consider the entire matter including the appointment of the writ petitioner upon consideration of the relevant rules and his academic credential along with other candidates in the panel and take a decision in this regard within two weeks from the date of submission of the records by the school authority.

8. The order of the learned Single Judge is modified to the aforesaid extent. The penal directions are set aside.

9. The appeal is accordingly disposed of with the aforesaid order.

10. However, there shall be no order as to costs. P

11. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

