

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 14561 of 2024

Dr. Sachindra Nath Bala

versus

The State of West Bengal and others

For the petitioner

Ms. Usha Maity
Mr. Sakya Maity

For the State

Mr. Swapan Kumar Dutta
Mr. Rajat Dutta

For the WBCSC

Mr. Pulak Ranjan Mondal
Ms. Bandana Mondal
Mr. Subhrangsu Panda

For the College

Mr. Amitava Chaudhuri
Mr. N. Roy

For the added respondent

Mr. Debasish Roy
Mr. Debnath Mahata

Last Heard on

18.09.2024

Judgment on

18.09.2024

JAY SENGUPTA, J:

This is an application praying for directions upon the respondents, particularly the President of the Governing Body

and the Teacher-in-Charge of Pakuahat Degree College in the district of Malda, to issue appointment letter in favour of the petitioner for the post of Principal in terms of the recommendation letter dated 15.03.2024 issued by the Secretary, West Bengal College Service Commission on the basis of advertisement No.1 of 2022.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner's name was recommended by the West Bengal College Service Commission for the post of Principal of Pakuahat Degree College, Malda. When the petitioner contacted the College authorities, they refused to issue any appointment letter to the petitioner in this regard. Representations were made to the concerned authorities, but in vain.

Learned counsel for the added respondent denies the allegations made in the writ petition and submits as follows. Prior to the recommendation of the petitioner's name for the post of Principal of Pakuahat Degree College, the name of the added respondent was recommended by the College Service Commission for the said post. He prayed for two months' time to join as he was to get release from the earlier concern and the like. However, no response came from the College authorities about it. It is also true that the College does not have Science as subject and the added respondent is a teacher of Science.

Thereafter, the added respondent wrote to the College Service Commission that his case may be considered as appointment of Principal in Manbhum Mahavidyalaya. Then, he had sought for such post in the Sankrail Anil Biswas Smriti Mahavidyalaya and lastly at the Midnapore College. But, no response had been forthcoming.

Learned counsel for the West Bengal College Service Commission denies the allegations made in the writ petition and submits as follows. In the present case, initially a recommendation was made in favour of the petitioner for the post of Principal in the said College. However, he prayed for some time to join the said College. The Governing Body of the College issued an appointment letter to the added respondent asking him to join the College within a particular time. The added respondent prayed for some time. This was not allowed. The College wrote to the Commission about what steps should be taken in this regard. Since no one joined the post of Principal of the said College, the Commission was constrained to issue another recommendation in favour of the petitioner. In the meantime, the added respondent had written to the Commission requesting joining the post of Principal in some other colleges. This amounts to a refusal to join as Principal in the respondent College. There is no illegality in the recommendation made by

the Commission in favour of the petitioner to join the College in question as Principal.

Learned counsel for the College authorities denies the allegations made in the writ petition and submits that the College has every right to choose whom they would appoint as Principal. The College wants to exercise such independent power. Reliance is sought to be placed on a decision of this Court in *Dr. Prasanta Kumar Sen vs The State of West Bengal and others* [WP 24596 (W) of 2012 and WP 24023 (W) of 2012]] although no copy of the judgment is produced.

I have heard learned Advocates for the parties and have perused the writ petition, the affidavits and the reports.

It appears to be an admitted position that the added respondent could not join the College for the post of Principal in time. Although he prayed for extension of time to join at first, later on he had written to the College Service Commission for appointing him as Principal in some other colleges. There was a clear unwillingness to join the said College as Principal.

Besides, one wonders whether he would have been able to perform his duties to the best of his ability as he was a teacher of Science and admittedly, the College did not have a course of Science.

Since the added respondent did not join the post within time as stipulated, it was open to the Commission to recommend the petitioner for such post and the same was done after some time.

Therefore, this Court does not find any irregularity or illegality in the manner in which the recommendation was done by the West Bengal College Service Commission in favour of the petitioner.

Even though a recommendation of the Commission may not be binding on a College, as an institution discharging public duty of imparting education, it is incumbent upon the College at least to consider the recommendation, if not for anything else, then at least for the sake of probity and transparency and also considering the paramount interest of the students. Even the decision in *Dr. Prasanta Kumar Sen (supra)* requires the College to inform their decision of non-acceptance of such recommendation along with reasons to the Commission and seek further recommendation.

In view of the above discussions, let the College authorities take an appropriate decision on the question of appointment of the petitioner to the post of Principal in the said College in accordance with law and expeditiously, preferably within four weeks from the date of communication of this order.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Jay Sengupta, J)