

Item No.52

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

29.07.2024
Ct-14
AGM

WPA 17127 of 2024

Md. Asraful Ali
vs.
The State of West Bengal & Ors.

Mr. Firdous Samim.
Ms. Gopa Biswas.
Ms. Payel Shome.
Ms. Sampriti Saha.
Mr. Avijit Kar.

... For the petitioner.

Mr. Suman Dey.
Ms. Amrita Tewari.

... For the State.

Mr. Avishek Prasad.

... For the DPSC, Malda.

The petitioner prays for consideration of his prayer to be treated as a candidate for recruitment in the 2016 recruitment process initiated by the West Bengal Board of Primary Education.

From the documents annexed to the writ petition it appears that he approached this Court on an earlier occasion with the selfsame prayer. The Court considered the case of the petitioner in WPA 5277 of 2021 and vide order dated 29th November, 2022 disposed of the writ petition by holding that the petitioner cannot be given the benefit of being a candidate of the 2016 recruitment process.

Challenging the order passed by the Hon'ble Single Judge, the petitioner preferred an appeal and the Hon'ble Division Bench vide order dated 10th August, 2023 passed in MAT 229 of 2023 with CAN 1 of 2023 was pleased not to interfere with the order passed by the Hon'ble Single Judge. The appeal stood dismissed.

Presently the petitioner tries to re-agitate the issue all over again relying upon an order dated 23rd February, 2024 passed in WPA 24856 of 2022 (Abaydullah Seikh & Anr. Vs The State of West Bengal & Ors) with WPA 24840 of 2022 (Mirajul Mondal & Anr Vs The State of W.B. & Ors.).

It has been submitted that in view of the order dated 23rd February, 2024 fresh cause of action has arisen for which the instant writ petition has been filed. The petitioner submits that he ought to be treated similarly as the petitioners in the matter of Abaydullah Seikh & Anr (supra). The petitioner ought not to be treated dissimilarly as he stands in the same footing as Abaydullah Seikh & Anr. (supra) and, accordingly, similarly benefit ought to be extended in his favour.

Learned advocate representing the Board opposes the prayer of the petitioner. It has been submitted that the writ petition is liable to be dismissed on the ground of res judicata.

I have heard the submissions made on behalf of the parties and have perused the documents annexed to the writ petition.

Admittedly, it appears that the prayer of the petitioner has been dismissed by the Hon'ble Single Judge duly affirmed by the Hon'ble Division Bench. The said prayer cannot be renewed all over again relying upon an order passed by a coordinate bench in a different matter.

The issue in question has already been put to rest by the Hon'ble Division Bench. If the petitioner intends to renew his prayer for being treated as a candidate in the recruitment process of 2016, then the petitioner ought to approach the Hon'ble Division Bench for modification of the order passed.

Judicial propriety demands that the order passed by the Hon'ble Division Bench is followed by the Single Bench on the self same issue. This Bench will be bound by the order passed by the Hon'ble Division Bench on 10th August, 2023 dismissing the prayer of the petitioner. There is no scope for re-adjudication of the grievance of the petitioner by this Bench.

The writs petition accordingly fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)