
Rupesh Kumar Singh
Vs.
The State of West Bengal & Ors.

Mr. Shyamal Kr. Das
Ms. Smita Pal
Ms. Krishna Yadav.
... For the Petitioner

Mr. Pinaki Bhattacharya
Ms. Sangeeta Roy.
....For the Respondent
Nos. 1 to 3

Mr. Sukanta Das
....For the Respondent
Nos. 4 & 5

This is a hearing matter upon affidavits.

On the prayer of Mr. Shyamal Kr. Das, learned counsel appears for the petitioner, time to file affidavit-in-reply stands extended till today. Affidavit-in-reply affirmed on April 12, 2024, filed in Court today, is taken on record.

Mr. Sukanta Das, learned counsel appears for the respondent nos. 4 and 5.

The writ petitioner was an aspirant for the post of **Librarian (General)** at **Sukchar Kedar Nath Poddar High School (H.S.), District – North 24-Parganas** (for short the school). A selection process was held in **2009** in which the petitioner participated but ultimately when the panel was published it appeared that, the petitioner was not selected. Challenging numerous alleged irregularities and/or illegalities the petitioner in the first

round filed a writ petition, **W.P. No. 2004 (W) of 2011** which was disposed of by a coordinate Bench by its order dated **September 6, 2011, Annexure-P13 at page 55** to the writ petition. The coordinate Bench directed the respondent no.3 to consider the issue by passing a reasoned order. The respondent no.3 then passed its reasoned order dated **May 4, 2012, Annexure-P-14 at page 57** to the writ petition, wherein the respondent no.3 had observed certain irregularities and/or illegalities in the selection process and directed the school to recast the panel.

Assailing the said impugned decision of the respondent no.3 dated **May 4, 2012** the instant writ petition has been filed in the second round.

Mr. Shyamal Kr. Das, learned counsel appearing for the petitioner submits that, the relevant selection process for the post of **Librarian** was held in terms of the **West Bengal Schools (Recruitment of Non-teaching Staff) Rules, 2005** (for short the said 2005 Rules). He submits that, the said 2005 Rules does not provide for any recast of panel. Learned counsel for the petitioner then submits that, if a panel or selection process out of which the panel has been prepared is found to be suffering from infirmities, irregularities and/or illegalities, there is no scope for any recasting the panel but the panel has to be scrapped and the necessary selection process has to be held afresh following the due process of law.

Referring to the said impugned decision dated **May 4, 2012** learned counsel for the petitioner submits that, the respondent no.3 had held the hearing in presence of the petitioner and the school authority. The respondent no.3 had considered all the relevant materials and records and then came to its conclusion that, various irregularities and/or illegalities were there in the selection process and, accordingly, the panel stood vitiated. Hence, the respondent no.3 directed to recast the panel.

The school authorities neither before the respondent no.3 nor before this Court had been and has been able to demonstrate that, the irregularities and/or illegalities which had taken place in the selection process, as observed by the respondent no.3, were not true and correct, rather the school authority has accepted the same.

Ms. Sangeeta Roy, learned advocate led by Mr. Pinaki Bhattacharyya, learned State counsel referring to the affidavit-in-opposition filed on behalf of the respondent no.3 affirmed on December 14, 2023 submits that, the respondent no.3 upon due scrutiny of the panel and the relevant records connected therewith came to its finding. The respondent no.3 also dealt with the objections raised by the writ petitioner with regard to the validity of the selection process. The assessment of the merits of the candidates were also not proper. The school

authority did not submit the panel after necessary notification in the previous panel.

Learned counsel for the State then submits that, there is no infirmity in the decision of the respondent no.3 dated **May 4, 2012** and the respondent no.3 decided the issue upon proper scrutiny of the materials available before it. Hence, no interference is called for.

Mr. Sukanta Das, learned counsel appearing for the respondent nos. 4 and 5, the school authority, submits that, the school authority has not challenged the decision of the respondent no.3 dated **May 4, 2012**. He further submits that, the said post of **Librarian** is still lying **vacant** and if any direction is made upon the school authority it can proceed with the selection process afresh for the post of **Librarian**, strictly in accordance with law.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that, the school authority has not challenged the decision of the respondent no.3 dated **May 4, 2012** in any manner. The post of **Librarian is still lying vacant**.

The relevant observation of the respondent no.3, while not accepting the panel, is quoted hereinbelow :

“ On scrutiny of the panel of Librarian as submitted by the school authority some discrepancies have been appeared which are given below :-

i) 1st empanelled candidate Sri Tarkeshwar Singh has been allotted marks for Intermediate Exam. instead of H.S. Exam. Sri Tarkeshwar

Singh is a sponsored candidate by the Employment Exchange & his approved qualification noted in the Employment Exchange Register as H.S. from WBCHSE in 1997. Where as the School authority allotted him marks for Intermediate Exam. held on 1998 from Bihar Intermediate Education Council, Patna which was not noted in the register of Employment Exchange. He obtained marks in Intermediate Exam. 702 & H.S. Exam.451. Sub Regional Employment Exchange, Barrackpore supplied the information under RTI Act, 2005 to the petitioner Sri Rupesh Kumar Singh vide Memo No.BKP/BM/RTI-1/10/2252. Dt. 17.06.10 in respect of qualification of Sri Tarkeshwar Singh.

ii) On the other hand, total marks obtained by the petitioner in library science is 490 but score-sheet shows 487. So, marks will be put as 490 instead of 487 in respect of the petitioner.

Under this circumstances the School Authority may be requested to take action on the following points :-

i) Numbers as allotted to the 1st empanelled candidate for his intermediate Examination should be changed. He will be allotted marks for his H.S. Examination. So, total marks of the 1st empanelled candidate will be rectified in the consolidated score-sheet.

ii) Total number of the petitioner is respect of his Bachelor of Library Information Science will also be rectified in the consolidated score sheet.

After rectification, the panel position shall have to be changed. So, the School Authority is requested to submit the panel of Librarian to this office after recasting of the same for approval.

Hearing is thus disposed of.

All concerned may be informed accordingly.”

From records it appears that, after hearing the petitioner and the school authority the respondent no.3 passed its decision, which is impugned in the instant writ petition.

On a close scrutiny of the said impugned decision of the respondent no.3 it appears that, all the relevant materials were duly considered and then the respondent no.3 came to its finding that, the panel suffered from infirmities. The school authority has not challenged neither raised any objection to such finding.

In view of the foregoing discussions and reasons the **subject panel** which was under scrutiny before the respondent no.3 arising whereof the said impugned order dated **May 4, 2012** was passed by the respondent no.3 stands **set aside and cancelled**.

The respondent nos. 4 and 5, being the School authority, shall be at liberty to proceed **afresh** for holding the relevant selection process for the post of **Librarian** strictly in accordance with law, as if there was no selection process previously held for the said post of Librarian.

The petitioner and the other candidates only who had participated in the said selection process, their **age bar shall be relaxed** and they shall be **allowed to participate** in the fresh selection process, if they are otherwise eligible to participate therein, strictly in accordance with law. However, this order shall not create any right or equity in their favour and their merit shall be adjudged strictly in accordance with law.

With the above observations and directions this writ petition, **WPA 14387 of 2012** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)