

102 **20.12.**
2024
Ct. No. 08

Ab

MAT 1514 of 2024
IA No. CAN 1 of 2024
IA No. CAN 2 of 2024
IA No. CAN 3 of 2024

Sujay Kumar Nayek and others
Vs.
Suma Maity and others.

Mr. Sudipta Dasgupta,
Mr. Arka Nandi,
Ms. Shalini Ghosh.

... for the appellants.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee.

... for the State.

Mr. Subir Sanyal,
Mr. Ratul Biswas,
Mr. Kaushik Chowdhury.

... for the respondent no. 4 and 5.

Re: CAN 2 of 2024

The non-parties to the proceeding have filed the instant appeal seeking leave of this Court to assail the order dated 9th April 2024 by which the several writ petitions filed in relation to the recruitment process initiated in the year 2009 by the District Primary School Council, Howrah, were disposed of with the categorical finding that since more than a decade has passed when the appointments have already been made, it would not be proper to cancel the appointments, but directed the authorities to extend the benefits to those persons, who have approached the Court by filing the writ petitions during the interregnum period from 2012 to March 31, 2024.

Admittedly, the applicants seeking leave to appeal did not approach the Court as of this day, but sought to challenge the said order solely on the ground that there cannot be any cut-off date for extending the benefit.

Though the Counsel for the appellants in his usual rhetoric says that he is aggrieved by an order impugned in the instant appeal as the moment the Court found glaring illegalities in the recruitment process, it could have extended the benefits to the others, but the latent intention is manifested that the applicants intended to avail the benefit of the said order. There is no impediment on the part of the Court to lift the veil in order to ascertain the real intention behind the approach having made to the Court.

We do not find any impediment on the part of the Court in bringing a quietus to the litigation concerning an issue by indicating a cut-off date as the docket of the Court should not be exploded after the judgment or order is passed by the Court.

Often the Apex Court has deprecated the writ petition being entertained by the Court after the order is passed as the fence-sitter, who did not approach the Court timely, should not be permitted to rip the benefit of any decision passed in respect of the proceeding, which was initiated in close proximity of the cause of action having accrued. A person, who slept in slumber for a considerable period of time, should not get emboldened with the order passed by the Court in another proceeding that too after a gap of more than a decade and reopen an issue, which is set at rest by the said order.

The Single Bench was quite oblivious of the fact that after a gap of more than a decade the appointments already made should not be cancelled, but the persons, who have approached the Court and were deprived of for such irregularities and illegalities should be extended the benefit by rendering justice to them.

The hidden intention is patent on the face of the applications and the real objective is to get the benefit from the order sought to be impugned in the instant

appeal and, therefore, we do not find that the appellants can be regarded as aggrieved persons.

The application seeking leave to file an appeal being CAN 2 of 2024 is dismissed.

As a consequence thereof, the connected applications are also dismissed.

There shall, however, be no order as costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)