

30.04.2025
Sl. No. 44
g.b.
Court No.02

W.P.A. 8220 of 2025

Swati Datta @ Dutta (Sen)
-Vs-
The State of West Bengal & Ors.

Mr. Mukteswar Maity
Ms. Manika Sarkar
.....*For the Petitioner*
Mr. Amal Kr. Sen
Mrs. Ashima Das (Sil)
.....*For the State*

Affidavit of service filed in court today is taken on record.

Mr. Mukteswar Maity, learned counsel appears for the petitioner with Ms. Manika Sarkar.

Ms. Ashima Das (Sil), learned State advocate led by Mr. Amal Kr. Sen, learned Additional Government Pleader appears for the State.

The petitioner is an aspirant in a selection process for the post of Supervisor under the **ICDS Project**. The selection process had commenced in the year 2019. The interview was held in the year 2021 and the petitioner has participated in the interview. The final result is awaited.

At this juncture the petitioner seeking certain information applied under Right to Information Act, 2005 on **March 9/29, 2023, Annexure 'P-7' at page 37 to the writ petition.** Since no response was there, the petitioner filed the first round of writ litigation **WPA 16602 of 2023** which was disposed of by an order dated August 16, 2023, **Annexure 'P-8' at page 46 to the writ petition,** by a Co-ordinate Bench, granting liberty to the petitioner to prefer the statutory appeal under the Right to Information Act, 2005. Petitioner filed statutory appeal, **Annexure 'P-9' at page 49 to the writ petition.** The appeal was disposed of by an order dated **October 6, 2023, Annexure 'P-10' at page 54 to the writ petition.**

In the instant second round of writ litigation the petitioner is aggrieved with the said order dated **October 6, 2023** passed by the Appellate Authority. The instant writ petition has been affirmed on **April 5, 2025.**

Mr. Mukteswar Maity, learned counsel appearing for the petitioner referring to the said appellate order dated October 6, 2023 submits

that the result of the selection process is under process and not declared. Thus, no information could be provided at present. The Appellate Authority further informed that the information shall be provided to the petitioner on receiving a fresh application from the petitioner after recommendation and publication of result on the official portal of the Public Service Commission. Learned counsel submits that the authority is already pre-determined as the expression used "recommendation". He submits that if the candidates are recommended, then the petitioner will lose her chance in the selection process, where she has already participated. The petitioner apprehends that the Commission has already recommended candidates of their own by pick and choose method, to the prejudice of the interest of the petitioner.

Learned State counsel submits that the main answering respondent is the Public Service Commission.

None appears for the Public Service Commission, despite notice.

Considering the case made out in the writ petition and considering the submissions made by the learned counsel for the petitioner, this court is of the view that even in absence of the representation from Public Service Commission, this writ petition can be decided. Therefore, this court proceeds to decide this writ petition at the threshold.

The fundamental and elementary principle is that when a writ petition has been filed before this Constitutional Court under Article 226 of the Constitution of India, the petitioner first has to satisfy that right of the petitioner has been infringed, be it legal; be it constitutional.

Secondly, this Constitutional Court in exercise of its jurisdiction under Article 226 of the Constitution of India exercises its equitable jurisdiction also. So, the petitioner has to satisfy whether in the facts and circumstance, the equitable jurisdiction can be exercised by this court.

The admitted position is that the result has not yet been published in respect of the

concerned selection process and the same is awaited.

The law is well-settled that, even if an aspirant is empanelled, no vested right is created. In the facts of this case, since the result has not yet been published, even the question of empanelment of the petitioner has not arisen. The expression used '**recommendation**' cannot be said that the same has been used at this stage by the Commission with a predetermined mind. Since, the result has not yet been declared, the expression of **recommendation** cannot amount to exercise of a predetermined mind at this stage. Thus, no right of the petitioner has been infringed. Therefore, the petitioner has no right to file this writ petition at this stage.

The second aspect is the delay. The law is well-settled that Delay defeats Equity. The impugned order was passed on October 6, 2023 and the writ petition has been filed in April, 2025. The petitioner chose to wait for about one and half years. In fact, save and except, the interview having been held, as submitted by the petitioner,

the selection process has not proceeded one inch further. So, no equitable relief can also be granted.

In view of the foregoing reasons and discussions, this court is of the view that this writ petition is devoid of any merit.

Accordingly, this writ petition **WPA 8220 of 2025** stands **dismissed**, without any order as to costs.

It is made clear that dismissal of this writ petition shall not preclude the petitioner to take further course of action, strictly in accordance with law at the appropriate stage, if the petitioner is then found to be eligible to maintain any challenge, in accordance with law.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Aniruddha Roy, J.)