

**FMA 701 of 2022
IA No. CAN 1 of 2024****Vara Satyanarayana Marthi
Vs.
The State of West Bengal and others.**

**Mr. Ujjal Ray,
Mr. Arpa Chakraborty.
... for the appellant.**
**Mr. Supriyo Chattopadhyay, Ld. AGP,,
Ms. Iti Dutta.
... for the State.**
**Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey.
... for the WBCSSC.**

The writ petition challenging the action of the authorities in not filling up the posts of the declared vacancies on the basis of the panel having prepared in this regard stood rejected by the Court as the mandatory order cannot be passed after expiration of the panel.

Both the Counsels appearing for the respective parties submit that in terms of the order passed in the writ petition, the writ petitioner/appellant appeared before the School Service Commission and made submissions on the grievances so raised and the said Commission subsequently passed a reasoned order.

It is uniformly submitted by the Counsels that on the day of passing the impugned order, the reasoned order of the Commission was brought to the notice of the Court, but there is no reflection in the said order on the merit and demerit thereof, except that the said report was kept on record.

According to the Counsel for the appellant, the Court ought not to have made findings in this regard after the reasoned order was passed by the Commission, but should have relegated the appellant to challenge the said order before the appropriate forum independently.

We find substance in the aforesaid submission for

the simple reason that if the findings made in the impugned order remained, it may have some impact at the date of deciding the case, if instituted, challenging the reasoned order passed by the School Service Commission. However, the protection can be extended to the appellant with the observations that the findings returned in the impugned order shall not stand against the writ petitioner/appellant in the event the reasoned order is challenged before the appropriate forum.

With these findings the appeal and the connected application are disposed of.

Since the appellant has been granted liberty to challenge the reasoned order, the exception taken to the report shall not be deemed to have been dealt with by us in the instant matter.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)