

M/L 182
14.01.2025
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 10438 of 2024

Chhaku Shaikh & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Dipankar Mandal
Md. Yusuf Ali
Mr. Abdul Aziz Mondal

...for the Petitioner.

Ms. Sabnam De Bardhan

...for the State.

Md. Sarwar Jahan
Sk. Nayeemul Haque

...for the DPSC, Murshidabad.

Affidavit of service filed on behalf of the petitioners be kept with the record.

The Murshidabad District Primary School Council (“Council” in short), in the year 2009, had initiated a selection process for recruitment of Assistant Teachers in the primary schools of the district.

The petitioners had participated in the said selection test under the *exempted* category but were unsuccessful.

The petitioners, alleging that the appointments given under the *exempted* category is much less than the declared vacancies under the said category, had filed a writ petition being *WP No. 1013(W) of 2012* which was disposed of by granting liberty to the petitioners to file a representation ventilating their said grievance and consideration of their prayer for appointment before the Chairman of the Council.

The petitioners had filed the said representation, which the Chairman of the said council, by the order impugned dated October 18, 2012 has disposed of holding *inter alia* that the petitioner’s allegations are not correct and they are not entitled to be considered for appointment.

The Council has rejected the prayer of the petitioners holding as follows:-

“It appears from the representations that they were candidates for the 2nd phase appointment made through open advertisement, so the question of sponsoring from any concern does not arise at all. The Council published category-wise list of the successful candidates along with Additional list of 5% in Council’s office as well as through website for public information.

The claim of the petitioners that they are all successful candidates in E.C. category and empanelled

on merit list or there are vacant posts against non-joining E.C. candidates or also posts are lying vacant out of notified vacancy, not true at all. There is no vacancy lying with the Council in E.C. category. The Council has no information about non-joining E.C. candidates.”

This Court does not find any illegality and/or infirmity in the aforementioned findings of the order impugned.

That apart, the long 12 years’ delay in challenging the order impugned has not been satisfactorily explained. An explanation for the said delay though has been sought to be offered by stating that to ascertain the number of vacancies under the *exempted* category and other allied information, the petitioners had resorted to the provision of the Right to Information Act, 2005 and had waited till the disposal of the said proceeding.

It appears from the record that the petitioners, long after 9 years of the passing of the order impugned, had filed their application under the said Act of 2005; the said delay of 9 years has not been explained.

The law is well settled; long unexplained delay renders the writ petition not maintainable (see ***Sheo Raj Singh vs. Union of India*** reported in **(2023) 10 SCC 531**).

The Hon’ble Supreme Court, in the case of ***State of Madhya Pradesh vs. Nandlal Jaiswal*** reported in **(1986) 4 SCC 566** has held that “if there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction.”

Summing up the discussion(s) made above, this Court is not inclined to interfere with the order impugned.

WPA 10438 of 2024 is dismissed on merit and on the ground of limitation. There shall however be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)