

24.06.2025
Sl. No. 10
Ct No. 3
SG

WPA 13072 of 2024

**Kanu Mandi & Ors.
Vs
State of West Bengal & Ors.**

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Ms. Santi Das,
Mr. R.D. Bhowmick.

...for the petitioners

Mr. Srijan Nayak,
Ms. Rituparna Maitra.

...for the State

Mr. Tapan Kumar Rakshit.

...for respondent nos. 4 to 6

1. The petitioners in the present writ petition are challenging Memo No. 40/UDMA-25011(11)/13/2023-LSG SEC dated 01.02.2023, issued by Deputy Secretary, Government of West Bengal to the Chairman of the respondent-Municipality. By the said memo, a request was made to furnish a fresh proposal for filling up the bare minimum posts as per the guidelines outlined in the notification dated 29.08.2022.

2. The case of the petitioners is that earlier two separate employment notices both dated 30.07.2018 were issued by the Chairman of the respondent-Municipality inviting applications for filling up vacant posts of driver and mazdoor under Kalyani Municipality. Pursuant to these notices, the petitioners made application for the post of driver and Mazdoor. Later on, admit cards were issued by Kalyani

Municipality in favour of the petitioners by directing them to appear in the written test. Thereafter, the petitioners successfully cleared the written examination as well as the interview process. Subsequently, their names were included in a panel prepared by the respondent-Municipality. This panel was then forwarded to the Director of Local Bodies for approval.

3. It is submitted by the learned Senior Counsel for the petitioners that despite being empanelled no appointment letters were issued to them. Upon receiving no further communication, the petitioners had filed RTI application seeking status of the recruitment process. In response, vide letter dated 20.01.2024, the respondent informed the petitioners that the panel had never been officially published and no decision has been taken regarding its publication. It was communicated that the Urban Development and Municipal Affairs Department had directed the municipality to submit a fresh proposal for filling up the required posts. Aggrieved by the same the petitioners have preferred the present writ petition.

4. Learned Senior Counsel for the petitioners further contends that once a recruitment process had been initiated, the respondent authority cannot arbitrarily cancel or set aside the same without

assigning valid and cogent reasons. According to the petitioners, the inclusion of their names in the final panel gives rise to a legitimate expectation of appointment. Therefore, the recruitment process cannot be discontinued without due justification.

5. The respondent-Municipality in its reply affidavit, has stated that prior permission had been obtained for filling up 35 posts of Mazdoor vide Memo No. 1503/DLB dated 18.12.2015, 2 posts of Driver vide Memo No. 1397/DLB dated 26.11.2015 and 32 additional posts of Mazdoor vide Memo No. 978/DLB dated 30.07.2018. Upon completion of the recruitment process, Municipality submitted a proposal for appointment of 67 posts of Mazdoor and 2 posts of drivers vide Memo No. 2334/KM dated 12.05.2020. However, due to Covid-19 pandemic, the Finance Department of the Government of West Bengal vide Memo No.1491-F(Y) dated 02.04.2020 and Memo No. 2069-F(Y) dated 29.06.2020 imposed restrictions on recruitment/engagement of manpower unless expressly approved by the Finance Department. Consequently, the said proposal was forwarded to the Finance Department for necessary approval. During the process, it was discovered that the recruitment had been initiated without obtaining prior approval from the cabinet. In the meanwhile, the Urban Development

and Municipal Affairs Department vide order no. 344-UDMA dated 29.08.2022 decided to seize all ongoing or stalled recruitment processes in Urban Local Bodies where recruitment had been initiated prior to 01.01.2020 without proper government approval and where such processes had not been completed till date. The department further directed that fresh proposals could be considered if submitted with proper justification. Pursuant to this, the Chairman of Kalyani Municipality, vide Memo No. 9822/KM dated 27.12.2022, requested fresh approval for filling up of the said posts, citing shortage of manpower. In response, the department, through impugned Memo dated 01.02.2023, requested submission of fresh proposal for filling up the bare minimum post, in accordance with order no. 344-UDMA dated 29.08.2022. Accordingly, the respondent-Municipality again submitted a fresh proposal for 67 posts of Mazdoor and 2 posts of driver. However, vide order dated 28.07.2023 the Directorate requested to submit proposals for filling up driver posts only as per Summary Sheet as prescribed in FS-73/2018 dated 09.07.2018. The revised proposal was subsequently submitted on 21.12.2023.

6. In essence, the contention of respondent no. 3 is that the earlier recruitment process was initiated

without requisite approvals from both the Finance Department as well as from the Cabinet. They also submit that the recruitment notice was published before the formation of selection committee, which is in violation of the West Bengal Municipal Employee Recruitment Rules, 2005. Now there is a policy decision taken by the department vide order dated 29.08.2022 where a decision was taken to seize all ongoing or stalled recruitment processes in Urban Local Bodies where recruitment had been initiated prior to 01.01.2020 without proper government approval and where such process had not been completed till date.

7. This Court has heard the arguments advanced by the learned Counsel for the parties and has perused the documents and materials on record, including the relevant affidavits.

8. It is settled principles of law that mere participation in a recruitment process or the inclusion of a candidate's name in a select panel does not confer an indefeasible right of appointment. The petitioners admittedly participated in the recruitment process initiated by the notice dated 30.07.2018. However, the selection panel was neither published nor approved by the competent authority. The records indicate that the recruitment process was undertaken without obtaining

the mandatory approval from the Finance Department and from the Cabinet. The respondent authorities have brought on record that due to financial constraints and in view of subsequent policy decisions, all such incomplete or unapproved recruitment process prior to 01.01.2020 were to be treated as lapsed, with an option to submit fresh proposals, if justifiable.

9. It is trite law that the scope of judicial review in matters concerning policy decisions of the State particularly those relating to recruitment and appointments, is limited. The Courts do not ordinarily sit in appeal over administrative decisions unless such decisions are shown to be arbitrary, mala fide, discriminatory or actuated by malice.

10. In the present case, the decision of the respondent authorities to discontinue the earlier recruitment process and to call for fresh proposals appears to have been taken in conformity with applicable rules, particularly in view of the fact that there was no concurrence or permission accorded from the Finance Department and from the Cabinet. No materials have been placed on record before this Court to establish any element of arbitrariness, mala fide intent or violation of any statutory provisions.

11. In view of the above, this Court finds no merit in the challenge laid by the Petitioners. The Petitioners

have not been able to establish a legally enforceable right to appointment or demonstrate that the action of the Respondents suffers from any illegality or procedural impropriety warranting interference under Article 226 of the Constitution of India.

12. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)