

Item-
11. 02-04-2025

**In The High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

sg

Ct. 8

MAT 1906 of 2024
CAN 1 of 2024
CAN 2 of 2024
CAN 3 of 2024

Bhim Rajwar
Vs.
Shankar Karmakar & Ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Raju Bhattacharyya
... for the appellant
Mr. Saibal Acharya
Mr. Sukhendu Bikash Mukherjee
...for the respondent no.6
Mr. Lalit Mohan Mahata
Mr. Prasanta Behari Mahata
Mr. Amit Bikram Mahata
Mr. Aditya Mahata
...for the respondent nos.10
Mr. Sudipto Panda
Mr. Sajal Kumar Pandit
...for the State

1. The appellant has filed an application seeking leave to prefer an appeal with a prayer for condonation of delay of 586 days.
2. The petitioner alleged that the petitioner applied pursuant to an advertisement of 14th June, 2011 for the post of non-teaching staff (Peon) for Bikramjeet Goswami Memorial College, Purulia and had appeared in the written examination on 6th December, 2011 but he was not called for an interview in spite of being successful in the written examination.

3. Before we enter into the merits of the matter, we need to find out whether any supported explanation has been offered for not being able to approach the Court after the petitioner became aware that steps have been taken to fill up the posts.
4. The petitioner, in the instant case, has challenged the order of 19th January, 2023 in which Shankar Karmakar, who was appointed as a Peon, Group D cadre under the category of Schedule Cast in the said College on June 13, 2011 with the approval of the Director of Public Instruction on 2nd January, 2012, was directed to be reinstated by an order dated 18th January, 2023 in WPA 25441 of 2022. The applicant alleged that the petitioner stands on the same footing as of Shankar Karmakar and by reason of the fact that he was not called for an interview, he could not compete with Sri Shankar Karmakar. Thus, it has been strenuously argued that in the earlier proceeding, it would be evident that the members of the selection committee are related to candidates which completely vitiated the steps taken by the selection committee in finalizing the list of successful candidates. It is submitted that once it is established that the entire selection procedure is flamed and there is a reasonable apprehension of bias, any selection made by such committee is required to be set aside and a fresh election process should have been started.
5. The learned Senior Counsel for the appellant has drawn our attention to an order dated 30th August, 2018 in WP

30376(W) of 2014 to show that there is a categorical finding that the private respondents are the sons of the respective members of the selection committee as also of the governing body of the College and having regard to the fact that these facts are not being denied by the College the entire selection process was held to be vitiated by bias.

6. However, we put question to the learned Senior Counsel for the writ petitioner for the reason for not approaching this Court when admittedly it appears that few persons who, have been successful in the written examination but not called for interview, had filed writ petition challenging the said selection process. It appears that once Sudeb Kanti Banerjee and Biswajit Banerjee filed a writ petition being WP 30376(W) of 2014 alleging that in spite of their participation in the written examination and being successful in the written examination they were not called for interview on 13th June, 2011. However, the interview was not held as scheduled and without giving an opportunity to them, several persons were appointed in the advertised posts thereafter. He alleged that the respondent nos. 9 to 15, who were appointed to the said posts, are closely related to the members of the selection committee and could be their family relations. Initially, the selection process was set aside on 30th August, 2018 by a learned Single Judge in which the aforesaid observation strongly relied upon by the learned Senior Counsel was made and based on what the entire selection

process was set aside.

7. However, the Division Bench in MAT 1063 of 2018 with CAN 7561 of 2018 and MAT 1259 of 2018 with CAN 8248 of 2018 by an order dated 12th December, 2019 set aside with the following observation:

“It is submitted on behalf of the appellants that they were not the relatives of the members of the selection committee and had been working for seven years before this order quashing their appointment.

We are of the view that this kind of an order has very serious repercussions on the persons engaged in service for a substantial length of time. Instead of drawing a quick conclusion with regard to the selection process, an opportunity ought to have been given to the appellants to represent themselves.”

8. Pursuant thereto, the matter was heard at length by another learned Single Judge in which, on consideration of all material records and the evidence filed, the writ petition was allowed by quashing the appointment of respondent nos. 11 and 12 with a liberty to the College to publish a fresh advertisement with the said two posts and conduct a selection process with the said two posts in a fair and objective manner.
9. The basis for not interfering with the selection of the other candidates appears to be that the writ petitioners applied for only two of seven non-teaching posts namely; petitioner no.1 for Clerk and petitioner no.2 for Typist, and hence, the petitioner cannot be permitted to challenge the other five posts which were advertised and candidates were appointed in relation to the same in view of the

decision of the Hon'ble Supreme Court in Umakant Saran (Dr.) v. State of Bihar reported in (1973) 1 SCC 485 and in B. Srinivasa Reddy vs. Karnataka Urban Water Supply & Drainage Board Employees' Association reported in (2006) 11 SCC 731.

10. Moreover, there is clear finding in the earlier proceeding that Shankar Karmakar has no connection with the members of the governing body. It is thus, clear that Shankar was entitled to the said post and as he was denied the appointment, Sri Karmakar approached the writ Court in which the order under challenge was passed. The present petitioner cannot be said to be an aggrieved party in the facts and circumstances of the case. The applicant slept over his right for almost 13 years. The applicant had the opportunity to challenge the selection process earlier as was done by Sukdeb Banerjee and Biswajit Banerjee.
11. On such consideration, we do not find any reason to interfere with the appeal. The appeal is dismissed. However, there shall be no order as to costs.
12. The application for leave to prefer an appeal is dismissed. As a consequence thereof, other applications also stand dismissed.
13. Affidavit in reply filed in Court is taken on record.
14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Smita Das De, J.)