

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 26962 of 2022
Sk. Sahajahan Ali & ors.
vs.
The State of West Bengal & ors.
with
WPA 26964 of 2022
(CAN 1 of 2023)
Pralay Kumar Samanta
vs.
The State of West Bengal & ors.
With
WPA 26967 of 2022
(CAN 1 of 2023)
Susanta Kumar Mondal & Anr.
vs.
The State of West Bengal & ors.
with
WPA 26969 of 2022
(CAN 1 of 2023)
Rajkumar Mandal
vs.
The State of West Bengal & ors.

For the Petitioners : Mr. Dipayan Kundu.

For the Municipality : Mr. Dilip Kumar Sen.

For the State : Mr. Jayanta Samanta, Sr. Adv.,
(in WPA 26962 of 2022) Mr. Mrinal Kanti Biswas.

For the State : Mr. Himadri Sikhar Chakraborty,
(in WPA 26964 of 2022) Ms. Susnita Saha.

For the State : Mr. Jayanta Samanta,
(in WPA 26969 of 2022) Mr. Manas Kumar Sadhu.

For the State : Mr. Himadri Sikhar Chakraborty,
(in WPA 26969 of 2022) Ms. Susnita Saha.

Hearing concluded on : 23.07.2025

Judgment on : 11.08.2025

Shampa Dutt (Paul), J.:

1. The writ petitioners case is that pursuant to the approval of Directorate of Local Bodies, Government of West Bengal, Municipal Affairs Department, Selection Process in the year 2016, for the recruitment of 11 (eleven) approved permanent posts of different categories (Assessment-in-Charge- UR-1, Steno Typist- UR-1, Typist- SC-1, Peon-SC-1 and UR-1, Helper SC-1 and UR-1, Majdoor SC-1, UR-1, ST-1, UR-1 Ex-Serviceman of Panskura Municipality was started following the provision of Recruitment Rules, 2005.
2. It is further stated that some candidates filed several writ petitions and got an ex-parte interim order on 24.02.2017, wherein it was observed:-

*"This court, therefore, finds a prima facie case having made out by the petitioners. The Chairman of the Panskura Municipality is directed to permit the petitioners to sit in the written examination scheduled to be held on **26th February, 2017** but shall not publish the result until further order of this court."*

3. In terms of the decision of selection committee and the Hon'ble High Court's direction, the written test was held on the scheduled date,

26th February, 2017 but the result of the written test was not published pursuant to the order dated 24.02.2017.

4. The then Chairman made an application for vacating the interim order dated 24.02.2017. It was taken up for hearing on 13.07.2018 and after hearing the respective parties, the Court was pleased to vacate the interim order as those writ petitioners were unwilling to proceed with their writ petition.
5. After the interim order dated 24.02.2017 was vacated, the Chairman at present Chairperson, Board of Administrators, Panskura Municipality published the result of the written test and the merit list was published in the Website of the said Municipality and was also posted on the notice Board of the Municipality. But for unknown reasons, after a long time from the date of publication, the result of the written test, call letter was issued to the successful candidates for appearing before the interview board on 06.12.2019 at 10.30 A.M.
6. But without any cogent reason and without any discussion and/or meeting with the selection committee, the chairman, Panskura Municipality in his individual capacity published a notice being Memo No. PM/Establist/03/2019/21 dated 04.12.2019 in the newspaper "Sanbad Pratidin" on 05.12.2019, stating inter alia that due to an unavoidable circumstances the interview and/or viva-voce test was postponed and that the next date would be informed later. But no reason was assigned as to why the date for viva-voce test was deferred.

7. It is stated by the petitioners that in spite of being a successful candidate in the written test of the selection process, the petitioners could not secure a job, as the viva voce test was deferred indefinitely.
8. The petitioners preferred a writ petition having registered W.P.A. 4863 of 2021, **where in the Court was pleased to pass an order on 24.02.2021 directing the respondent No. 2 being the Joint Secretary, Department of Urban Development and Municipal Affairs to take a decision with regard to the permission sought for by the Municipality for concluding the recruitment process which was initiated in the year 2016.**
9. As the authorities did not act as directed by the High Court, the petitioners preferred a contempt application being WPCRC No. 91/2022. The contempt application was taken up for hearing on 27.01.2022, when the Learned Advocate appearing on behalf of the Chairman/ Administrator of Panskura Municipality produced the reasoned order dated 15.12.2021 passed by Mr. Sourav Chaki, Additional Secretary, Urban Development and Municipal Affairs Department, Government of West Bengal wherefrom it is found **that Municipality had been directed to resume the pending selection process and conclude the same as per provision of law. Govt. orders, rules regulation etc. as applicable and appointment letters can be issued subject to approval by the State Cabinet.**
10. After passing of the said reasoned order, the Additional Secretary issued a letter on 25.01.2022 to the Chairman, Panskura

Municipality stating inter alia that “*with reference to this Department's Memo No. 293/MA/UDMA-15011(11)/102/2021-LS-MA SEC. dated 15.12.2021 on the above subject the undersigned is directed to request him **not to process the recruitment procedure for 11(eleven) posts in different categories under Panskura Municipality for the time being due to unavoidable circumstances***”.

11. On 19.05.2022 the contempt matter was taken up for further consideration and Rule was issued against both the alleged contemnors.
12. On the returnable date due to the death of the alleged contemnor, the Special Secretary, Government of West Bengal was adduced as a contemnor being in-charge of the Additional Secretary of the Urban Development and Municipal Affairs Department, Government of West Bengal.
13. Subsequently, the Special Secretary filed a compliance report dated 31.08.2022 before the Court hearing the contempt application.
14. The Court disposed of the contempt application with the observation that the petitioners are at liberty to challenge the reasoned order dated 31.08.2022 in accordance with law.
15. **The said reasoned order has been challenged in the present writ application.**
16. It is stated that due to the arbitrary and mala fide activities of the authorities concerned, the petitioners have been severely prejudiced as in spite of being genuine qualified candidates, they could not

secure the job till date in spite of there being no laches on their part.

17. On hearing the parties and on perusal of the materials on record, it appears that **vide the reasoned order dated 15.12.2021**, the Additional Secretary had stated that the Municipality had been directed to resume the selection process and conclude the same as per the existent provision of law, Government Orders, Rules, Regulations as applicable.

18. **It was further stated in the said report that:-**

*“.....that a proposal (file) on relaxation of the circulars issued by the Finance Department regarding austerity measures with a view to selection/recruitment in all eleven (11) vacant posts of Panskura Municipality has been sent by the Urban Development and Municipal Affairs Department to the Finance Department and the matter **is under active consideration of the Finance Department.....”***

19. As the said selection process was still not revived and thus not continued, a contempt application was filed.
20. The order under challenge in the present writ application is the said compliance report in the form of a reasoned order dated 31.08.2022.
21. It is submitted by the learned counsel for the petitioners that the said compliance report is in total contradiction to the contents in the reasoned order dated 15.12.2021 and as such the petitioners have been severely prejudiced and now seek for revival of the selection process for getting appointment.

22. Vide the reasoned order in the form of compliance report dated 31.08.2022, the Special Secretary of the Urban Development and Municipal Affairs Department, Government of West Bengal, placed the following facts and findings:-

“..... Considering all relevant aspects it may be stated that:-

- i. After getting approval of the DLB dated 7.3.2019, it took nearly nine months to fix up the interview schedule i.e. on 6.12.2019 and that too got postponed on 5.12.2019, just a day before interview, without intimation a further date and thus leaving the candidates helpless. Finally when the municipal authority approached the DLB again almost after one year i.e on 6.11.2020 for resumption of the process, restriction for recruitment/engagement of manpower had already been imposed vide Finance department memo no. 1491-F(Y) dated 02.04.2020 **as an austerity measure for combating COVID 19 pandemic.** Now, since after starting in 2016 the entire process got delayed several times for various reasons, at this point of time it could not be assessed as to whether due procedure was followed in filling up of the post. The municipal authority could not produce the relevant records in this connection. Moreover, **at present the recruitment process in Urban Local Bodies is guided by certain orders/notifications of the State government in Finance department and Urban Development & Municipal Affairs department in order to ensure rational** and optimal utilization of human resources, which are (i) 7806-F(P)/FA/O/2M/1151/17 (N.B.) dated 19.12.2017, (ii) 4175-F (P2)/ FA/O/2M/71/18 (NB) (pt) dated 29.06.2018, (iii) 981/MA/O/C-4/1A-23/2017 dated 31.12.2018, (iv) 34(145)/MA/O/C-4/1A-23/2017 dated 09.01.2019 and **the instant process remained non-compliant to these orders.***

- ii. *By this time the State government in **UD&MA Department vide Memo No. 344-UDMA-25011(11)/108/2022-LSG SEC dated 29.08.2022** has decided that in cessation of all ongoing/stalled recruitment process in the Urban Local Bodies where the recruitment process was initiated with the government approval issued before 1.1.2020 for filling up of the vacant posts in Urban Local Bodies (ULBs) and could not be completed by the Urban Local Bodies till date, the State government in Urban Development and Municipal Affairs Department would consider proposals for filling up of the vacant posts in those ULBs **afresh by following the existing government orders** as mentioned above, if the Urban Local Bodies send proposals with proper justification. The instant matter falls within the purview of this order.*
- iii. *Therefore, the prayer of the petitioners for granting permission as sought by Panskura Municipality for concluding the recruitment process which was initiated in the year 2016, cannot be acceded to. However, if the municipal authority comes up with a fresh proposal in the prescribed format for filling up of the post in question stating the functional necessities for filling up of this post, it may be considered following the existing norms and orders. The matter is thus disposed of. All concerned be informed accordingly.*

Sd/-

Special Secretary,

Urban Development & Municipal Affairs Department,

Government of West Bengal.”

23. It appears from the said report that the recruitment process in the present case was initiated in August, 2016 and due to several writ

applications preferred by some candidates, the process was delayed and even though after much delay the result of written test was declared, no interview/viva voce test could be conducted in spite of fixing dates for unknown reasons.

24. In course of time further Government Orders were issued relating to such recruitment and appointment matters which came into force and became applicable to recruitments which were under process and also which were stalled.

25. Finally, the State Government, Urban Development and Municipal Affairs Department, passed an order dated 31.08.2022 stating:-

“.....UD&MA Department vide Memo No. 344-UDMA-25011(11)/108/2022-LSG SEC dated 29.08.2022 has decided that in cessation of all ongoing/stalled recruitment process in the Urban Local Bodies where the recruitment process was initiated with the government approval issued before 1.1.2020 for filling up of the vacant posts in Urban Local Bodies (ULBs) and could not be completed by the Urban Local Bodies till date, the State government in Urban Development and Municipal Affairs Department would consider proposals for filling up of the vacant posts in those ULBs afresh by following the existing government orders as mentioned above, if the Urban Local Bodies send proposals with proper justification. The instant matter falls within the purview of this order...”

26. As such the recruitment process in respect of the petitioners which was not completed came to be guided by the said memo. **The said UD&MA Department vide Memo No. 344-UDMA-**

25011(11)/108/2022-LSG SEC dated 29.08.2022, admittedly is not under challenge.

- 27.** The memo under reference has cancelled all long pending recruitment process and the memo still being in force, the writ petition having no merit stands dismissed.
- 28.** Pending applications, if any, stands disposed of.
- 29.** Interim order, if any, stands vacated.
- 30.** Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)