

22.04.2025
(D/L 9)
Ct. No.1
(Naba)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

M.A.T. 161 of 2023

**Sri Ganesh Basak
Vs.
Smt. Ishita Das & Ors.**

Mr. Amales Ray, Sr. Adv.,
Mr. Nigam Mittal,
Ms. Perna Mitra
... for the Appellant
Mr. Subir Kumar Saha,
Mr. Momenur Rahman
... for the State Respondent

Mr. Narendra Nath Das,
Mr. Gobinda Ch. Roy,
Mr. Praggadip Roy Basunia,
Ms. Binapani Singha,
Mr. Madhab Kr. Roy
... for the Respondent No.1

Mr. Debajit Kundu
... for the Respondent Nos.4, 5 and 6
(School Authority)

1. The writ petitioner approached the writ court being aggrieved by an approval issued by the District Inspector of Schools, Siliguri dated 23.03.2023 by which a panel for appointment to the post of Assistant Headmaster has been approved. The writ petitioner was the third empanelled candidate in the approval dated 23.03.2023. The respondent no.7 was the second empanelled candidate. It was the case of the writ petitioner before the writ court that the process for approval of the panel was delayed by the

District Inspector of Schools so as to favour the second empanelled candidate.

2. When the matter was taken up by the Hon'ble Single Judge on 01.09.2023, the Hon'ble Single Judge has taken note of the provisions contained in the **guidelines for recruitment of Assistant Headmaster/Assistant Headmistress of recognized aided Non-Govt. Secondary Schools/Higher Secondary Schools, Govt. sponsored School and all Types of recognized & aided Madrasahs in terms of Notification No. 151-L dated 25.01.2002 and Notification No. *811-SE(S) dated 17.06.2002, published in Kolkata Gazette** ('Guidelines' for short).

According to Clause 4 of the Notification, a panel prepared by the District Inspector of Schools in this case on 23.03.2023, is valid only for a period of three months. In between issuance of the panel on 23.03.2023 and the date on which the matter was being considered before the Hon'ble Single Judge on 01.09.2023, no steps were taken for making appointment from the panel in question. By virtue of the provisions contained in the above Notification, the panel had ceased to exist/lapsed. Taking note of this development during pendency of the writ petition, the writ petition has been dismissed as infructuous.

3. Order of the writ court has now been assailed by the appellant who was respondent no.7 before the writ proceedings.
4. The learned senior counsel for the appellant submits relying upon a decision in the case of **State of U.P. Vs. Ram Swarup Saroj** reported in **(2000) 3 SCC 699** that since the matter was pending consideration before the Court, the lapse of the panel in the meantime, by effect of the Notification was immaterial. The appellant was thus entitled to be considered and appointed as Assistant Headmaster from the panel.
5. We have considered the decision cited at the bar. We find that the same has no application to the facts and circumstances of the present case. In the case of **Ram Swarup Saroj** (*supra*) before the Hon'ble Apex Court, the select list was finalized in the month of November 1996 and the writ petition was filed in October 1997 i.e. before the expiry of one year from the date of the list. The plea that list of selected candidates was valid for one year only was not raised before the writ court and under such circumstance the writ court found the writ petitioner/respondent before the Hon'ble Apex Court to be entitled to the relief.
6. In the instant case, on the other hand, the issue of validity of the panel being for a period of 3

months only was considered by the writ Court. The writ petition was thus dismissed as infructuous relying upon Clause 4 of the guidelines which reads:

“4. On getting approval of the panel, the Managing Committee/Ad hoc Committee/Administrator of the school shall issue appointment letter to the first empanelled candidate within 15 days through Registered post. The panel shall remain valid for three months from the date of approval of the panel by the Dist. Inspector of Schools (SE). If any candidate fails to join within 1 month from the date of receipt of the appointment letter or leaves the post within the period of validity of the panel, the next empanelled candidate shall be offered appointment. Name of such candidate who does not join within the given time shall be struck off from the panel.”

7. In the instant case, there is another distinguishing feature. The appellant herein is not the writ petitioner. He was a respondent in the writ proceedings and he has not approached the Court invoking writ jurisdiction for grant of any relief. Thus, decision of the Hon’ble Apex Court in the Judgement cited at the bar, thus, has no application to substantiate or support the submissions advanced on behalf of the appellant relying upon the panel, as he was the respondent

in the writ proceedings and had not approached the writ court for any relief relying upon the panel.

8. We thus find no infirmity in the decision passed by the Hon'ble Single Judge.
9. The appeal is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)