

24.03.2026
Item No.14
Court No.11
Avijit Mitra

**FMA 881 of 2024
with
IA No.CAN 1 of 2024**

**Abdulla Molla
- Versus -
State of West Bengal & ors.**

Md. Mokaram Hossain,
Mr. Salauddin Ahamed,
Mr. Karnab Biswas
.....for the appellant

Mr. Supriyo Chattopadhyay,
Mr. Gourav Das
.....for the State

Mr. Arjun Ray Mukherjee,
Mr. S. Mukherjee,
Mr. Jayjeev Medhi
.....for the respondent nos.2 & 3

Mr. Naresh Chandra Howly,
Mr. Swadhin Chowdhury
.....for the respondent nos. 5 & 6

In spite of service no one appears today on behalf of the added respondents.

In the present intra-court appeal, the writ petitioner/appellant (hereinafter referred to as “the appellant”) has called into question the legality and/or propriety of the judgment dated 1st May, 2024 passed by the learned Single Judge in WPA 21272 of 2007. By the said order, the learned Single Judge refused to exercise jurisdiction on the ground that the matter involves serious disputed questions of fact, the resolution of which would require a full-fledged trial on evidence, and therefore cannot be adjudicated in a writ petition.

The following facts, which are central to the effective adjudication of the present appeal, are not in dispute.

In 2004, the authorities of the school, namely, Chouhata Adarsha Vidyapith (hereinafter referred to as “the school”), initiated a selection process to fill up six vacancies for the post of Para Teacher in different subjects. As per the extant Rules, 50% of the vacancies were reserved for female candidates.

The dispute giving rise to the present appeal pertains to the appointment to two posts of Para Teachers in the Social Science group, for which interviews were held on 24th July, 2004. The notice dated 10th July, 2004 indicates that the said two posts in the Social Science group were reserved for female candidates. It was further specified in the said notice that, in the event no application for the post of Para Teacher in Geography was received by the school, both posts would be filled by candidates who had applied for the subject of History. Upon receipt of applications from intending candidates, the selection process was conducted on 24th July, 2004, and the successful candidates were appointed to the respective posts, where they have been rendering their services.

Almost three years after the conclusion of the selection process, the writ petitioner, a male candidate approached this Court by filing a writ petition, inter alia, contending that, in response to the notice appearing at page 34 of the stay application, he had applied for the post of Para Teacher in Geography. He further contended that he had participated in the interview and secured the top position in the panel

prepared for the said post. However, no appointment was subsequently offered to him, which prompted the appellant to file the writ petition.

The writ petition was decided after exchange of affidavits between the parties. In the affidavit-in-reply, certain documents were annexed by the appellant in support of his claim that he had appeared in the said interview. However, the learned Single Judge ultimately concluded that there were serious disputed questions of fact which required adjudication upon taking evidence in a full-fledged trial in appropriate proceedings. Aggrieved by the said decision, the present appeal has been preferred.

Mr. Hossain, learned advocate appearing for the appellant, has heavily relied upon two documents and submits that a notice written in Bengali dated 10th July, 2004, a receiving endorsement allegedly made by the Headmaster of the school upon receipt of an application from the appellant, and a declaration given by one Anirban Biswas, an Assistant Teacher of Shalipur High School, who claimed to have been appointed as an expert member of the Selection Committee constituted to fill up the post of Para Teacher in Geography, support the appellant's case.

He submits that from these documents it is evident that the School had initiated a selection process to fill up the post of Para Teacher in Geography. However, subsequently, the School took a different stand, and due to non-cooperation on the part

of the school authorities, the appellant could not collect any further documents in support of his claim.

He further submits that, on the basis of these documents, a direction be issued upon the school authorities to appoint the appellant to the post of Para Teacher in Geography.

Mr. Roy Mukherjee, learned advocate appearing for the respondent nos. 2 and 3, submits that, as per the documents forwarded by the school authorities, both the posts in the Social Science group were reserved for female candidates. Upon conclusion of the selection process, the successful candidates were appointed to those posts and have been discharging their duties till date. He further submits that the documents produced by the appellant are not sufficient to persuade a writ court to issue a direction for appointment of the appellant to the said post.

He also submits that the appellant has miserably failed to establish that he participated in the interview held on 24th July, 2004.

Mr. Howly, learned advocate appearing for the school authorities, submits that the appellant did not participate in any interview held for the post of Para Teacher in Geography. The learned advocates appearing for the private respondents and the State adopt the submissions made by Mr. Roy Mukherjee and pray for dismissal of the appeal.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

Though reliance was placed on a notice dated 10th July, 2004 written in Bengali, the appellant sought to contend that applications were invited from both male and female candidates for the post of Para Teacher in Geography. However, the School authorities, as well as the District Project Officer and the Mission Director, have jointly disputed the authenticity of such document.

It is the specific case of the respondents that a notice was displayed at the relevant time indicating that two posts in the Social Science group were notified and both were reserved for female candidates. Since, no application for the post of Para Teacher in Geography was received by the school, it was decided, in terms of the instructions contained in the notice, that both the posts in the Social Science group would be filled by candidates who had applied for the subject of History.

The selection process was concluded in 2004, and the writ petition was filed almost three years thereafter. The appellant has heavily relied upon a document containing a declaration by one Anirban Biswas, stating that he was appointed as a member of the Selection Committee, that an interview was held in which the appellant participated, and that the appellant was placed at the top of the panel prepared for the said post. However, such claims have been seriously disputed by all the respondents, including the school authorities.

In view thereof, the learned Single Judge, in the order impugned in the appeal, has observed that serious disputed questions of fact are involved in the present litigation, which

can only be resolved upon taking evidence and cannot be adjudicated in a writ proceeding, which is admittedly a summary proceeding.

Having considered the facts and circumstances of the case, as well as the observations made by the learned Single Judge, we do not find any infirmity and/or perversity in the decision of the learned Single Judge. Accordingly, we find no justification to interfere in the present appeal.

Accordingly, the appeal and the connected application are thus dismissed.

There shall, however, be no order as to costs.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)