

Court No. 17

CAN 6 of 2022

**23.11.2022**

WPA 12266 of 2021

(AD 1)

Sandeep Prasad & Ors.

(at 3 p.m.)

Vs.

(S. Banerjee)

The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate  
Mr. Sudipta Dasgupta  
Mr. Bikram Banerjee  
Mr. Arka Nandi  
Ms. Dipa Acharya  
Mr. Sutirtha Nayek  
Ms. Shalini Ghosh

... for petitioners

Dr. Sutanu Kumar Patra  
Ms. Supriya Dubey

... for WBCSSC

Ms. Koyeli Bhattacharya

... for WBBSE

Mr. Billwadal Bhattacharya, DSGI  
Mr. Arijit Majumdar

... for CBI

Mr. Bhaskar Prasad Vaisya  
Mr. Sirsanya Bandyopadhyay  
Mr. Joydip Banerjee

... for the State

**Re: CAN 6 of 2022**

I directed the West Bengal Central School Service Commission in the morning to produce the files containing instructions to their learned advocates to file an application which has taken the form of CAN 6 of 2022.

The files have been produced before me. I have seen all the files and I do not find any such instruction was given to the learned advocates of the Commission to file such an application where in paragraph 6 it is clear, some submissions have been made before this court of justice and a Constitutional Court to pass some order whereby the illegally appointed persons' services would be retained by creating supernumerary posts and the genuine persons' appointments will also not be disturbed. Paragraph 6 of the said application is required to be quoted here:

“It is thus submitted that if any other illegality concerning the appointment of Group-D staff is identified, it is humbly proposed that apart from giving recommendations and appointment to genuine candidates as observed by this Hon'ble Court by its order dated 21 September 2022, supernumerary posts be also created to accommodate those whose appointments are subsequently found to be invalid. Such proposal will result in no loss of jobs and enable such appointees to have means of livelihood. However, in the event of such proposal being accepted, appropriate directions be given that such persons do not have seniority over those eligible for appointment.”

The usual practice of any statutory authority or any Governmental authority is to take a decision to file any application or appeal in a court of law and then to

communicate it to the learned advocate of its choice. From the files of the Commission I do not find any such instruction. Therefore, I hold that it was not an application which has been made at the instance of the Commission.

Here Mr. Bhattacharya, learned senior counsel for the petitioners, has submitted that there is no structured instruction in the files that the Commission would file such an application and it is required to be known at whose instruction or at whose direction or at whose beckoning such an application was filed.

In my order passed before recess I made it clear that though I am not requesting the Chairman to appear personally but he may appear before this court to participate in the proceeding and he has come. The Chairman has submitted that when such an application has been made on behalf of the Commission, the responsibility is upon him and he wants to take responsibility of such an application. But as I have already held that this is a **Benami** application putting the Commission in front of the court some other persons are pulling the strings, I hold that the Chairman's responsible statement of taking responsibility of this application is not acceptable to the court. We have to find it out who took the decision at all.

Mr. Vaisya and Mr. Bandyopadhyay, learned advocates representing the State have submitted that paragraph 6 of this application is contrary to the decision of the Government for creating supernumerary posts which is in its order dated 19<sup>th</sup> May, 2022. I am not adjudicating upon that order today. If such order comes to me, then I will have an occasion to take a decision thereon. Both of them have also prayed for some time to take instruction from their client, i.e., the Government of West Bengal. They have also shown a letter to the effect that paragraph 6 is contrary to the order passed by the Government dated 19<sup>th</sup> May, 2022. However, I direct Mr. Manish Jain, the Principal Secretary to the Government of West Bengal to appear personally tomorrow at 10:30 a.m. before this court to give reply to some questions to be put by this court as to the filing of such an application which is clearly not the brainchild of the Commission.

As before this court of justice and before this Constitutional Court an endeavor has been made by one **Benami** application to save the services of the illegally persons by creating supernumerary posts, while fighting the corruption this court will naturally want to know who is the brain behind it. At whose instance such an application for perpetuating the illegal appointments has been made.

For this purpose I direct the CBI to start investigation in connection with the cases already registered in this matter (being WPA 12266 of 2021) forthwith and they should find it out from where the application has originated. The CBI is to file a report as to the origin of the instruction or the decision for filing of such an application within a period of seven days before this court. I further direct CBI to take immediate steps from today evening itself to start the investigation to know whose brainchild is this, i.e., saving the illegally appointed persons. We must know it to burst out the racket of corruption. It is an organised crime which has been committed in respect of the school employees appointment where a large number of genuine candidates have not got job and they are roaming around the street and some persons got the job though it has been declared by this court in respect of some of the cases that those appointments are invalid and of no effect.

I direct the Commission to start the counseling for the posts in respect of which this court has declared the appointments are invalid and are of no effect in terms of the West Bengal Central School Service Rules by 15<sup>th</sup> December, 2022.

I also direct the Commission to publish the panel with breakup of marks, CD whereof has already been

given to the learned advocates for the petitioners to publish in their official website.

The files shown to me by the learned advocate for the Commission, Dr. Patra, are returned and handed over to him in the court room today.

List this matter tomorrow at 10:30 a.m. as a 'Specially fixed matter'.

**(Abhijit Gangopadhyay, J.)**