

17. 05. 2022

BP
Sl. 401
Court No. 17

WPA 5406 of 2022

Babita Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Mousumi Hazra
..for the petitioner.

Mr. Samrat Sen
Mr. B.P. Vaisya
..for the State.

Dr. S.K. Patra
Ms. S. Dubey
..for SSC.

Ms. Koyeli Bhattacharya
..for the Board.

The petitioner has alleged in this writ application that in the merit list published initially one Babita Sarkar was in the first position and her position was 20th. But after some days one Ankita Adhikary, daughter of Paresh Chandra Adhikary, presently a Minister of State for Education was imported in the said merit list and the said Ankita Adhikary was placed in serial no. 1 and, therefore, the petitioner, Babita Sakar, became 21st in the merit list. This merit list was actually a waitlist. From the waitlist 20 persons have been given recommendation and, therefore, the

petitioner, the 21st candidate in the list, after sudden appearance of said Ankita Adhikary, did not get any opportunity to get any recommendation and consequent appointment. Ankita was placed in Serial No.1 in the said wait list.

In course of the hearing learned advocate for the State, Mr. Sen, has submitted that neither the said Anikta Adhikary nor another person named in the petition, namely Moni Das, against whom another allegation that despite being a below-ranked waitlisted candidate, got recommendation and subsequently appointment by a jump from her below rank and crossing at least the petitioner, are not made parties.

I direct the petitioner to add them, i.e., Ankita Adhikary and Moni Das, and also Paresh Chandra Adhikary as party respondents in this writ application by tomorrow after receiving the address from the School Service Commission. Petitioner has submitted that for not having the addresses of them they could not be made parties.

I direct the learned advocate for the Commission, Dr. Patra, to supply the names and address of those two persons to be added as respondents.

The other aspect of this matter is that some powerful invisible hands definitely worked in this

matter, otherwise this Ankita Adhikary could not have been included in the waitlist. These hands are to be identified.

In course of the hearing I requested the Chairman and the Secretary of the Commission through their learned advocate, Dr. Patra, to come online for giving some necessary particulars to this court about said Ankita Adhikary and the petitioner Babita Sarkar. The Chairman and the Secretary came online, took immediate steps to provide some information wherefrom it is learnt by all present in the court that total marks secured by Ankita Adhikary in the said SLST was 61 breakup was - 30 in the subject test and 31 in academic score. The petitioner Babita Sarkar got 77 marks which is much higher (considering a competitive examination) and her breakup of marks was - 36 in subject test, 33 in academic score and 8 in personality test.

Regarding said Ankita Adhikary, daughter of Mr. Paresh Chandra Adhikary, there is no marks against personality test whereas there are marks obtained by the petitioner, Babita Sarkar in personality test. Therefore, it is evident that not only the name of Ankita Adhikary was suddenly imported in the waitlist as serial No.1 whereby the petitioner has been deprived,

said Ankita Adhikary was not even a candidate who had qualified for appearing for the personality test. This is extremely surprising.

Now it is required to be noted that his father Paresh Chandra Adhikary is presently a Minister-of-State in Education. However, when the merit list was published said Paresh Chandra Adhikary was not the Minister of State for Education.

It has been submitted by the learned advocate for the petitioner that after said Paresh Chandra Adhikary joined the present ruling party, his daughter was included in the list, which is a matter to be inquired.

I find that there is a scam in this appointment which is required to be thoroughly enquired by Central Bureau of Investigation.

At this juncture learned advocate for the State, Mr. Sen, has raised three objections, which are as follows: Everybody has a right to be heard and without hearing, this order of enquiry by CBI is being passed. Even the two persons namely Ankita Adhikary and Moni Das are not parties to this writ application.

The Police force of this State never failed in investigating any crime or never failed to discharge their responsibilities and, therefore, instead of CBI, police force of this State is to be given the duty to

enquire into the matter as the police force has not been given any chance to investigate such type of matters, and a special investigating team may also be constituted.

He also submits that School Service Commission has the power to set the wrong or the mistake at naught and they can rectify wrong or the mistake by exercising power given to them by the statute namely, West Bengal School Service Commission Act, 1997, and the rules framed thereunder.

After the disclosure of marks by the authority namely School Service Commission today in course of hearing, I do not think that any opportunity is required to be given to said Ankita Adhikary for defending the allegation that she has been brought into the waitlist at serial no. 1 most illegally. What new thing she would show? Records speak against her. Facts cannot be improved.

This court has full faith upon the police force of this city and State. All the inhabitants of West Bengal know how efficient they are and everybody will admit the efficiency of the police force and it is also the experience of people that the hands of the police forces are always tied by the persons in power.

Therefore, in my view inquiry by CBI is the only

option here.

Whether SSC will take steps under Rule 17 of the relevant Rules or not and whether said Ankita Adhikary would be removed from her service or not, is a matter to be decided by the Commission. But even if such steps are taken the scam will not be obliterated. Such removal will only show that there was a serious illegality done by importing said Ankita Adhikary as no. 1 in the wait list who even did not qualify to face the personality test board. I have not dealt with another candidate Moni Das today against whom allegation of jumping the list has been alleged. School Service commission is directed to look into this allegation.

Therefore, after considering the submissions of Mr. Sen, I am not changing my views. I want this matter to be enquired by the CBI and it should start from today itself.

I direct the head of the CBI of Eastern Region to register a case and to start the enquiry immediately in this matter by constituting a team and he shall have the fullest liberty to select the members of the team and I direct the CBI to call the said Paresh Chandra Adhikary first in course of the day to interrogate him. CBI will enquire and interrogate in every way possible the persons who would be of some importance in this

scam as would be found by CBI during the enquiry.

I direct the petitioner to communicate the gist of the order of CBI enquiry immediately to the CBI office and I expect that CBI will not waste any time to start the inquiry.

I direct the said Paresh Chandra Adhikary to go to the CBI by 8 p.m. today so that CBI can start interrogating him in every possible manner for knowing the facts.

Lastly I say that we have to reach to a cleaner and better society. As the name of one Minister of State is involved in this matter, to cleanse the whole situation of polity, I would expect that the said person, Mr. Paresh Chandra Adhikary would either step down or would be removed from the post of Minister and the Chief Minister and the Governor of this state would think over the matter. It is made clear that this is not my order or direction, nor any observation for the removal. This is only an expectation of this constitutional court that we are to look for a better tomorrow.

Direction for affidavits is given. The respondents may file their affidavit in opposition by three weeks after vacation, reply thereto, if any, by two weeks thereafter. The matter will appear in the list on 5th July,

2022.

The CBI is directed to file a preliminary report of such enquiry before me on 7th June, 2022 at 2 p.m. List the matter on 7th June, 2022 also.

Mr. Sen has prayed for stay of operation of this order.

I have considered such prayer and the same is rejected.

This matter is marked as heard in part.

(Abhijit Gangopadhyay, J.)