

Court No. 17

WPA 18585 of 2021

**01.04.2022**

(AD 1)

(S. Banerjee)

Laxmi Tunga & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate

Mr. Firdous Samim

Ms. Gopa Biswas

Ms. Gargi Bhattacharya

... for the petitioners

Mr. Supriyo Chattopadhyay

Mr. Biswarup Biswas

... for the State

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

... for the SSC

Ms. Koyeli Bhattacharya

... for the WBSSE

Mr. Y. J. Dastoor, ASG

Mr. Phiroze Edulji

Mr. Samrat Goswami

... for the CBI

Mr. Biswaroop Bhattacharya

Mr. Dipayan Kundu

... for the Mr. Santi Prasad Sinha

1. Mr. S. P. Sinha responded to the call of CBI 8 hours late and reached CBI office at about 11:15 p.m. yesterday and CBI asked him certain questions in respect of the irregularities and illegalities in giving appointment to the post of Group D staff, which is the subject-matter of this writ application, till 2:30 a.m. today.

2. CBI is made a party in this writ application. I direct the learned advocate of the petitioners to add CBI a party respondent in this proceeding here and now.
3. Learned advocate for Mr. S. P. Sinha, has submitted that Mr. Sinha got the news of summoning him by CBI in compliance with the order of this court at about 7:30 p.m. but Mr. Sinha has stated in reply to question no. 1 before the CBI that at about 2 p.m. he received the order.
4. The preliminary report of compliance filed by the CBI is kept on record along with the reply to the questions given by Mr. S. P. Sinha to CBI. A sealed cover containing the questions and answers has been filed by CBI which has been opened by direction given by me.
5. School Service Commission has filed a second report affirmed on 31.03.2022 wherein they have stated in paragraph 6:

“i) the candidates mentioned in Pages 72 and 73 of the said application were included in wait list but not recommended by the commission

Copies of the application forms filed by the candidates mentioned in page 73 of the writ application are annexed herewith and marked as “R-1” (collectively) wherefrom the

category and the caste of the said 8 candidates will be evident.

ii) Out of the 90 candidates as mentioned in pages 85 and 86 of the said application, 85 candidates were neither waitlisted nor recommended.

With regard to the remaining 5 candidates namely Bapan Das, Tarak Nath Heit, Nemai Khalua, Pritish Maity and Raju Das, they were in the waitlist but not recommended by the Commission.

A copy of list containing details of the above 90 candidates as mentioned in pages 85 and 86 of the writ application is annexed herewith and marked as "R-2".

**6.** The persons against whom allegations have been made and in respect of whom the Commission has stated in their affidavit that they were never recommended by the Commission and in respect of whom it has been alleged that they are working in different schools as Group D staff, the salary of all such persons shall not be paid any further. They shall not be treated as candidates recommended by the Commission. They shall not be allowed to enter into the schools as Group D staff of the said schools. Further orders in respect of their illegal appointment and other aspects would be passed later and now I direct the concerned District Inspectors of Schools (S.E.) to

take immediate steps for complying with the order passed by this court.

**7.** In one similar matter of illegal recommendation and appointment the answers given by Mr. S. P. Sinha and Mr. Samarjit Acharya to the questions of this court has been recorded and I direct my court officer to hand over the copies of the questions and answers given by them, which I took under Section 165 of the Indian Evidence Act, to the learned advocate of the CBI in the course of the day. Learned advocate for the CBI will also be handed over the Exhibits made in that proceeding being WPA 13701 of 2021 (Md. Abdul Gani Ansari -Vs.- State of West Bengal & Ors.). In the said proceeding it came to the knowledge of this court that a high-powered committee was constituted by the Education Department of the State of West Bengal constituted by the following five members:

- i) Shri S. P. Sinha, Advisor to the West Bengal Central School Service Commission - the Convenor
- ii) Shri S. Acharya, Personal Secretary to Hon'ble Minister in Charge of the Department
- iii) Shri P. K. Bandyopadhyay, OSD to the Hon'ble MIC of Education Department
- iv) Shri A. K. Sarkar, Deputy Director (GA Section), Directorate of School Education Department
- v) Shri T. Panja, Senior Law Officer of the department.

I direct the petitioners to add all these persons of that committee as party-respondents in this matter immediately.

**8.**I direct the Principal Secretary of the School Education Department to supply the addresses of the four persons, except Mr. S. P. Sinha, forthwith to the learned advocate for the petitioners and also to the learned advocate of CBI.

**9.**I direct the CBI to take steps forthwith to call the above persons for asking questions in respect of this illegal appointment scam in public employment and they are to be called in the course of the day. When they will be questioned, will be decided by the CBI. I am not giving any guideline to that effect, but they are to be called in course of the day and they are directed to attend the office of the CBI as soon as they will be called by the CBI. This order on those persons is mandatory and any non-compliance with this order will be viewed very seriously by this court against the persons who will fail to attend the office of the CBI as soon as they are called.

**10.** The question and answer to be made to Mr. S. P. Sinha will continue till CBI thinks that he is not required to be questioned. But this does not mean that he will not be questioned after this preliminary stage by CBI.

- 11.** The order has been pronounced in open court in presence of all the parties and the parties are directed to comply with the order.
- 12.** The names of the five members of the committee whose names came before this court in connection with a writ application being WPA 13701 of 2021 are relevant here under Section 42 of the Indian Evidence Act as orders passed in that matter, being WPA 13701 of 2021, relates to matters of a public nature relevant to the enquiry.
- 13.** I direct the Principal Secretary of School Education Department and also the CBI to file a short report as to the compliance of this order on 4<sup>th</sup> April, 2022 at 10:30 a.m. when this matter will again appear under the heading 'To be mentioned'.
- 14.** The second report (report in the form of an affidavit affirmed on 31.03.2022) filed by the Commission on the basis of which I have stopped the salary and have passed other directions in respect of those persons, be kept on record.
- 15.** As the order has been passed in presence of the learned advocates for the petitioners; the said Mr. S. P. Sinha; learned advocate on behalf of the State, Mr. Supriyo Chattopadhyay; and Mr. Y. J. Dastoor, learned advocate for the CBI, they are requested to take immediate steps for compliance of this order.

**16.** If the CBI finds in the meantime after getting the five names that any other person, whatever be his political or social status, is required to be questioned, CBI will have fullest liberty to question such persons.

**17.** I direct the CBI to register a regular case in this respect so that the matter can be proceeded with on the basis of the said case. Yesterday the steps were taken by the CBI pursuant to the order passed by this court.

**18.** Learned advocate for the CBI has stated that after registering a case it will be a CBI investigation and not an enquiry.

List this matter on 04.04.2022 at 10:30 a.m.

**(Abhijit Gangopadhyay, J.)**