

30. 03. 2022
BP
Sl. 5
Court No. 17

WPA 13701 of 2021

Md. Abdul Gani Ansari
Vs.
State of West Bengal & Ors.

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

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
..for the SSC.

Mr. Raja Saha
Mr. Sandip Dasgupta
Mr. Shamim ul Bari
Mr. Saquib Siddiqui
Mr. Aviroop Mitra
..for the State.

Mr. Biswaroop Bhattacharya
Mr. Dipanjan Kundu
Ms. Mayuri Ghosh
..for the respondent no.14

Mr. Subhankar Nag
Mr. Jasojeet Mukherjee
..for the respondent nos. 8, 10 and 11.

Mr. Kanak Kiran Bandyopadhyay
..for the respondent no.13.

Ms. Koyeli Bhattacharya
..for the Board.

On 25.03.2022 I passed one order directing Mr. S.P. Sinha to file affidavit of assets. He was made a party in WPA 13701 of 2021, i.e., the writ application which is being dealt with now. Against this order dated

25.03.2022 passed by this court, an appeal was preferred by said Dr. S.P. Sinha being MAT 447 of 2022. Today, a copy of the order passed by the Hon'ble Division Bench comprising Justice Harish Tandon and Justice Rabindranath Samanta has been handed over to me. On a careful reading of the said order I find as follows:-

(i) My observations made in the order dated 25.03.2022 has been declared by the said appeal bench as tentative. How this declaration is made and why, is not known. There is no reason. Thus, this court's observation has been diluted.

(ii) Regarding my finding as to illegal appointments it is held by the said Division Bench - I do not know why - that it was a 'perceived notion', when the illegal appointments are hard facts that have come before me why such diluting word 'notion' has been used I do not know.

(iii) The said appeal court has also taken into account the 'thought process' behind the direction passed upon the appellant to file affidavit of assets. I do not know how the 'thought process' of this Judge can be known? Is this a comment on adjudication or something else, I do not know.

(iv) The appeal court held that 'we do not find any element warranting interference at this stage' but after holding that there is "no element warranting interference", the appeal court interfered in the order and held:

The affidavit of assets **shall** remain in a sealed cover and shall not be divulged or circulated to the litigating parties or their counsel. That shall be appropriately dealt with at the time of final decision to be taken on the issues involved therein.

I do not know what this court will do with a sealed cover in this proceeding when the hand of this appeal court has been tied by the above observation. I have been prevented from taking any consequential step on going through the said affidavit of assets.

It is also not understood by me that how at the time of final decision the sealed cover would be appropriately dealt with as for dealing with the said sealed cover supposedly containing the affidavit of assets other steps were required to be taken for adjudication by this Single Bench but I have been prevented by the Division Bench's order. I find that the Division Bench has fixed a course of action to be followed by this simple judge. There is absolutely no reason why I have been prevented in such a manner.

In a sense the hands of the Single Bench has

been tied though it has been stated by the appeal court that it does not find any element warranting interference with the said order at that stage. This is - I am sorry to say - a highest degree of double standard expressed by the appeal court for the reasons best known to it. But to maintain judicial discipline I have to accept such order.

I also do not understand who would be benefited by tying up the hands of the Single Judge when it has been made clear in the order dated 25.03.2022 that 'this court has found that there are serious illegalities in giving recommendations to ineligible candidates and the tip of the corruption-iceberg in issuing illegal recommendations is seen which is getting gradually bigger'.

However, when my hands are tied from taking further steps, after receiving the affidavit of assets I will not be able to proceed with the same. I do not understand what a court of law will do with a sealed envelope containing therein some papers which could be affidavit of assets.

Therefore, this matter is required to be adjourned for some days.

It has been submitted by the learned advocate of Mr. S.P. Sinha that the affidavit of assets in a sealed cover will be filed on 5th April, 2022.

I adjourn this matter till 5th April, 2022 when it will appear under the heading 'To Be Mentioned'.

(Abhijit Gangopadhyay, J.)

