

28.02.2022
Item No. 12
Ct. No.17
S.A.

WPA 17273 of 2021

(Via Video Conference)

Nasrin Khatun

-vs-

The State of West Bengal & Ors.

Mr. Firdous samim
Ms. Gopa Biswas
Mr. Aritra Bhattacharyya
Ms. Mousumi Hazra
...for the petitioner
Dr. Chapales Bandyopadhyay
Ms. Anandamayee Dutta
...for the WBCSSC

- 1.** In one after another matter filed by different petitioners, it is found that some candidates have been recommended by the School Service Commission who were not even in the panel and in the waiting list. It is a question how the persons were recommended at all by the Commission when those persons were not in either of the lists.
- 2.** The petitioner has raised a pertinent question from the merit list at Page 44 of the writ application stating that the School Service Commission definitely did the job of counselling and subsequent recommendation after following this merit list. Therefore, how the Commission could recommend the names of candidates when they are not even in any of the lists?

3. I am of a prima facie view that unless corrupt practices have been committed by the School Service Commission's responsible officers, such illegalities could not happen. It is also to be seen for the sake of keeping the sanctity of recruitment process in any employment under the Government that the process remains transparent and no question can be raised in respect of the process specially in a case like the present one where the present Chairman of the Central School Service Commission has filed one enquiry report wherein he has stated in Paragraph **(g) "as the names of the respondent No.7 & 8 were not included in neither the merit list nor the waiting list (Sic.) of the concerned selection test, they were not at all eligible for being recommended for appointment for the post of Assistant Teacher for classes IX-X"**

and in paragraph **(h) "the recommendation for appointment in favour of the respondent No.7 & 8 were issued by fault or by mistake from the end of the West Bengal Central School Service Commission"**.

4. Learned advocate for the Commission Mr. Bandyopadhyay has drawn my attention to Paragraph (m) where the West Bengal Central School Service Commission has made one submission for

allowing them to apply Rule 17 of the concerned rule to deal with the matter.

Rule 17 is a part of the statute and the Commission has every liberty to take steps under the said rule and for that purpose Court's leave is not required.

- 5.** Coming back to the question of corruption and my prima facie view in such appointment, I direct for investigation by CBI in this matter.

I direct the Director, Central Bureau of Investigation to constitute a committee, headed by an officer not below the rank of a Joint Director, with officers not below the rank of DIG to initiate the enquiry. It is expected that no person connected with the matter will be left out of this enquiry.

It is not that, I do not have any confidence upon the Police of this State. But the Police is controlled by the State and in effect they are chained by orders from different quarters. Otherwise I have the belief that the Kolkata Police or the Police of the State is fully capable to inquire into the matter. Therefore, I am directing the CBI to hold this enquiry which has happened in this State, by statutory authority of this state, as an agency outside the control of this State.

- 6.** Unless the highly placed persons having huge influence had the blessing in committing such scam

in public employment, such illegalities could not have happened. CBI shall also enquire about the involvement of the persons, invisible now, under whose hands the officers of the Commission, if at all, danced like a puppet and committed illegality. CBI shall also enquire whether there is any money trail in respect of such appointments when admittedly, as appears from the aforesaid report of the Chairman (who is a new one in the Commission and has given a fair report to this Court) the appointed persons were not at all in the panel or in the waitlist.

- 7.** It is extremely surprising that some candidates have been appointed as Assistant Teachers when their names were not in the list – either the panel or the waitlist. Unless a person secures a place either in the panel or in the waitlist, he cannot be recommended either at the time of recommendation from the panel or thereafter from the waitlist. A person can never be recommended by the School Service Commission (which is a statutory authority) when he was not in the panel or in the waitlist. But here this has happened.
- 8.** The private respondents here were given an opportunity to appear before the Chairman of the School Service Commission as this Court directed this matter to be primarily enquired by the Chairman of the School Service Commission, by the Court's

order dated 04.01.2022. From the said report of the Chairman annexed to the affidavit, from the very first paragraph (in paragraph (a)) it has been recorded by the present Chairman of the commission that the writ petitioner was present before him but the respondents namely Jnui Das and Mr. Azahar Ali Mirza (should be Azad Ali Mirza) remained absent.

9. I direct the CBI to file a preliminary report before this Court on 28th March, 2022 and I believe that CBI will not leave any stone unturned while enquiring the matter. It is to be known who is the mastermind in this dirty game.

10. This matter is marked as 'Heard-in-Part' as I have heard the matter extensively and perused the documents and have considered the submissions made at length by the parties.

List this matter on 28th March, 2022 at 12.30 p.m. under the heading "**Specially Fixed Matter**".

11. The petitioner is directed to serve a copy of this order immediately upon the CBI in their Calcutta Office and the School Service Commission is directed to upload this order in their website so that all persons concerned in this matter can come to know the order which has been passed today by this Court.

(Abhijit Gangopadhyay, J.)