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15.06.
2022
Ct. No.17

WPA 7907 of 2019

Ramesh Malik & Ors.
Vs.
The State of West Bengal & Ors.

With
WPA 9979 of 2019

Soumen Nandy
Vs.
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Advocate
Mr. Sudipta Dasgupta
Mr. Bikram Banerjee
Mr. Arkadeb Biswas
Mr. Arka Nandi
Ms. Dipa Acharya
Mr. Sutirtha Nayek

.....For the Petitioners in WPA
7907 of 2019

Mr. Bikash Ranjan Bhattacharyya, Sr. Advocate
Mr. Firdous Samim
Ms. Gopa Biswas

.....For the Petitioners in WPA 9979
of 2022

Mr. L. K. Gupta, Sr. Advocate
Mr. Ratul Biswas

.....For the Board in both matters
Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag

.....For the State in WPA 7907 of
2019

Mr. Billwadal Bhattacharyya
Mr. Arijit Majumder

.....For the CBI in both matters
Mr. Biswabrata Basu Mallick

.....For the DPSC, Hooghly in WPA
9979 of 2022

Mr. Arindam Chattopadhyay

.....For the DPSC, Nadia in WPA 9979 of
2022

Ms. Mousumi Hazra

.....For the Respondent No.11 in WPA
9979 of 2022

Mr. Joydeep Kar, Sr. Advocate
Mr. Samrat Sen
Mr. Bhaskar Prasad Vaisya

Mr. S. Siddiqui
Mr. Avishek Prasad
.....For the State in WPA 9979 of
2022

Pursuant to the direction given by this court in WPA 7907 of 2019 on 13.06.2022, Central Bureau of Investigation (CBI) has filed a report, which is kept on record, which I have perused.

2. Dr. Upendra Nath Biswas, Ex-Additional Director of CBI and also Ex-Minister of State Government from 2011-2016 has appeared personally and has made certain suggestions as to proper conduct of the investigation by CBI. His suggestions are:

- (i) A Special Investigation Team (SIT) is to be constituted by CBI for investigation.
- (ii) The names of the members of the SIT are required to be submitted before this court in writing by CBI who should not be engaged in any other investigation except investigating the present crime in the appointment of school teachers and others. This will expedite the investigation.
- (iii) The members of the SIT shall not be transferred without the leave of this court during the course of

investigation.

- (iv) The investigation should be formally declared as court monitored investigation.

3. In this regard Mr. Billwadal Bhattacharyya, learned counsel for the CBI after taking instruction from his clients present in court has submitted that CBI does not stand in the way if the court accepts the suggestions given by the Ex-Additional Director of CBI, Mr. Upendra Nath Biswas.

4. Mr. Bikash Ranjan Bhattacharyya, learned senior advocate for the petitioners has submitted that for expeditious investigation in this matter and for booking the culprits and kingpins, this is the most acceptable way within the present framework and the petitioners actually welcome the suggestions.

5. Mr. L. K. Gupta, learned senior advocate for the Board of Primary Education has submitted that court has already expressed its mind by saying that the suggestions made by Dr. Upendra Nath Biswas are quite impressive. He could not submit any further in this regard because that will yield no result. However, he submitted that in the writ application there is no allegation of criminality. At the most there are allegations of violation of Article 14 of the Constitution of India which can be redressed and in such a situation in

absence of any allegation as to criminal activities by the authorities in giving appointments CBI investigation is not at all required.

6. Mr. Gupta has also filed one report in the form of an affidavit which I have perused and which is totally silent about the legality of publishing the second panel and from the statements made in the said report I cannot but hold the circumstances leading to awarding 1(one) extra mark to some candidates only that there were some agitations after giving appointments from the panel and therefore the Board decided to send the questions of TET in the face of the allegations that some questions were wrong, to one expert body which body declared that one question was wrong are all baseless and cock and bull stories. The report is wholly silent as to the necessary facts and particulars as to such statements. This is wholly unbelievable as there was no public announcement either of preparation of second panel or filing of representations for extra marks against wrong answers and appointments after the appointments were given from the original panel. The entire activity was done surreptitiously without intimating all other candidates and the report is totally silent as to any such public announcement. It was infact admitted on the last occasion that no such public announcement was made. In fact, such report

of the West Bengal Board of Primary Education shows a conspiracy and an organized crime in respect of giving employment to some handpicked persons by way of publishing second panel otherwise such selective surreptitious and illegal appointments in different districts could not have been made. Beside the kingpin other helping hands must have been there in giving such appointments. This whole activity is also required to be investigated by CBI.

7. Learned advocate Mr. Bhattacharyya objected to such submission of Mr. Gupta submitting that in the writ application there are allegations of criminality and submitted that in the writ application it has been specifically pleaded that there are illegal activities for giving appointments to some persons who were not even passed in TET but granted one mark by way of a surprising and unknown procedure by the West Bengal Board of Primary Education. This is a crime in the realm of public employment.

8. I have heard and considered the submissions including the suggestions made by Dr. Upendra Nath Biswas. After hearing I pass the following orders:

- (i) The investigation by CBI in this matter being WPA 7907 of 2019 and in the other matter being WPA 9979 of 2022 shall be a court monitored investigation. It was so earlier also but such formal

declaration was not there. Now such formal declaration is made by this court.

- (ii) CBI shall constitute a Special Investigation Team (SIT) of competent officers who will be the only members of the SIT and whose names will be supplied to this court on 17th June, 2022 when these two matters will appear under the heading "To Be Mentioned" at the top of the list. The Joint Director who is now heading the Anti-Corruption Bureau of CBI shall be the head of the SIT whose name also shall be intimated to this court by CBI on 17.06.2022. The members of SIT and the said Joint Director shall not be transferred from Kolkata till the investigation is complete in every respect.

In respect of CBI investigation in education employment scam upto now in some other matters the investigation by CBI is not very satisfactory in the opinion of this court. The above two matters have been entrusted to CBI only few days back, but some other matters in respect of investigation in Secondary Education were entrusted to CBI some months back

regarding which I have not been intimated any substantial progress. However, today learned advocate for the present D. I. G. of Anti Corruption Bureau of CBI has submitted that CBI is doing its work according to its own speed which may always not be known or disclosed to the general public. However, any such development will definitely be intimated to this court. I accept this submission but at the same time I expect that CBI will conduct the investigation in all earnest and by its action, the court should not feel that CBI is not doing any real work in future because the court has given a very very important responsibility upon CBI relating to scam in education sector appointments including school teachers which has very serious ramification because if unscrupulous persons are appointed as teachers by purchasing the teaching jobs, this court does not believe that such persons will be able to impart any moral education and build the characters of the tender aged students.

These two matters are adjourned till 17th June, 2022 and these two matters are marked as “heard-in-part”.

(Abhijit Gangopadhyay, J.)

