

25.11.2021
Item No.148
Ct. No.17
S.A.

WPA 12266 of 2021

Sandeep Prasad & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Sudipto Dasgupta

Mr. Bikram Banerjee

Mr. Arka Nandi

Mr. Sutirtha Nayek

...for the petitioners

Mr. Bhaskar Prasad Vaisya

Mr. Joydip Banerjee

...for the State

Mr. Kishore Datta ...ld Sr. advocate

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

...for the SSC

Mrs. Koyeli Bhattacharyya

..for the WBBSE

Learned advocate Mr. Vaisya appearing for the State has read the Appeal Court's order in part. I have gone through the order passed by the Appeal Court on 24.11.2021. From the said order I find a part as follows :

“The impugned order, so far as it relates to the enquiry by the Central Bureau of Investigation is concerned, is stayed for a period of three weeks from date or until further order/orders of this Court whichever is earlier.”

I understand that the entire proceeding as is being continued in this Court has not been stayed. Therefore, I pass orders which are as follows:

- i)** On 22.11.2021, I directed the petitioner to file a tabular list annexing the recommendation letters or the appointment letters which have come into their possession indicating in the said table the names of those persons, the dates of recommendations and dates of their appointment letters. I directed them to file it on 24th November, 2021.

The matter was taken up on 24.11.2021 when none of the parties could produce the order passed by the Appeal Court and it was not known to me whether the entire proceeding before the Court had been stayed or only the CBI enquiry part had been stayed by the Appeal Court.

Today, from a copy of the order passed by the appeal Court on 24.11.2021 (in MAT 1254 of 2021) it is found that only the part of the order of this Court relating to enquiry by CBI has been stayed.

Therefore, I direct the petitioners to file the tabular list containing a large number of appointed persons and annexed thereto the recommendation letters or appointment letters, as the case may be which they have prepared. The tabular list in the form of supplementary affidavit affirmed on 24.11.2021 is accepted and kept on record.

- ii)** The School Service Commission is directed to scrutinise the said documents annexed to the said supplementary affidavit to see whether any

recommendation was made after the expiry of the panel and if the School Service Commission finds that recommendations from the said list were made after expiry of the panel, they will issue letters immediately to the concerned District Inspector of Schools for stopping the salary of such persons until further order of this Court.

iii) Which such facts have already come to light that recommendations were made after expiry of the panel in respect of 25 persons, I am of the view that no amount of argument will change those facts and nobody will be able to change those facts by making submissions. The facts will remain the facts whether any submission are made or not. If recommendations are made illegally and appointments are made on the basis of those illegal recommendations, those who have been appointed in a school as Group-D staff cannot have any right to get the salary from the public exchequer. Therefore, I am not accepting the submission of Mr. Datta that pleadings would remain incomplete if affidavits are not allowed to be used by his client, the Commission.

Similar submissions on behalf of the State is also not accepted.

The facts which are necessary for adjudication are already there in the record of this case which have come already by way of affidavits.

- iv)** This matter will appear in the list after the order passed by the Division Bench i.e. after 29th November, 2021 when the matter is fixed before the Division Bench.

Further order in this matter will be passed by this court after the order of the Division Bench is passed, if necessary.

- v)** Today, learned advocate for the petitioners has submitted for making the Finance Department a party to this application. I have not allowed such oral prayer today and if they are so advised they may file application for making a party which would be considered by this Court later.
- vi)** Learned advocate for the petitioner is directed to serve a copy of the supplementary affidavit filed today in court upon the State, the School Service Commission and the West Bengal Board of Secondary Education. The School Service Commission is directed to serve copy of this supplementary affidavit by speed post with A/D only to the persons in favour of whom recommendation letters have been issued after the expiry of the panel as because only they would suffer for the order passed by the Court upon the Commission for taking steps for stopping their salary.
- vii)** School Service Commission has submitted that in respect of service upon the candidates to whom

recommendation letters have been issued after the expiry of the panel the pleadings may be served by speed post with A/D and the earlier order in this respect may be modified. I accept such submission and the order passed earlier in this respect is modified accordingly and all the other pleadings may be served by the Commission by speed post with A/D. However, I make it clear that all the track records of India Post for such speed post service showing such service should be kept carefully by the Secretary of the Commission so that it can be produced at any point of time whenever it will be required.

viii) List it on 09.12.2021. The matter will be taken up at 2 P.M.

(Abhijit Gangopadhyay, J.)