

22.11.2021
Item No.93
Ct. No.17
S.A.

WPA 12266 of 2021

Sandeep Prasad & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate
Mr. Sudipto Dasgupta
Mr. Bikram Banerjee
Mr. Anath Nath Naskar
Mr. Somsubhra Ganguly
Mr. Arkadeb Biswas
Mr. Arka Nandi
Mr. Sutirtha Nayek

...for the petitioners

Mr. S. N. Mukherjee. Learned A.G.
Mr. Anirban Ray, Learned Govt. Pleader
Mr. Samrat Sen, Learned AAG
Mr. Bhaskar Prasad Vaisya
Mr. Joydip Banerjee

...for the State

Mr. Kishore Datta, Sr. Advocate
Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
Ms. Deblina Chakraborty

...for the SSC

Mrs. Koyeli Bhattacharyya

...for the WBBSE

This matter started snowballing with a writ application filed on 3rd August, 2021. The allegation was that the petitioners were allowed to participate in the selection process whereas some candidates below them were given appointment and it is one specific allegation as appears from Paragraph 19 of the writ application that there are candidates who have been recommended after expiry of the panel relating to Group-D.

The West Bengal Central School Service Commission by one notification dated 2nd September, 2019 intimated all that panel of 3rd RLST (NT) 2016 for recruitment to the post of Group-D in aided/sponsored Secondary or Higher Secondary Schools, expired on 04.05.2019.

The petitioners in their writ application have given some instances of recommendation letters which were issued by the School Service Commission on 06.01.2020, 20.03.2020, 20.12.2019, 16.12.2019 etc. In the course of hearing I directed the School Service Commission to file affidavit stating clearly that after 04.05.2019 when the panel of Group-D staff was expired, no region of the Commission issued any recommendation letter. Such an affidavit was filed by the School Service Commission stating that -

(i) Some recommendation letters were issued after the expiry of the panel/waiting list.

(ii) The Central School Service Commission wanted to get the response from the concerned Chairman Regional Commissions, but they got no response initially.

(iii) The Commission itself wanted to conduct an internal inquiry into the matter.

Subsequently the petitioners disclosed 25 names of candidates with their appointment letters stating that all of them were appointed on the basis of

the recommendation letters issued by the Regional School Service Commissions. In this regard, the Central Commission was granted another opportunity to file affidavit wherein they have stated that no such recommendation letters, as mentioned in the said 25 appointment letters, were issued by them to the West Bengal Board of Secondary Education. Considering such averments made in the affidavit of the West Bengal Central School Service Commission, I directed the West Bengal Board of Secondary Education to file an affidavit as to the source on the basis of which it issued appointment letters to those 25 candidates.

Today what is seen from the affidavit filed by the West Bengal Board of Secondary Education (affirmed on 22.11.2021) is really surprising. The West Bengal Board of Secondary Education has stated that the Board is in possession of original recommendations issued by the Commission with District Inspector of Schools memo mentioned upon its recommendations and the entire data was received by them in hard copies and in soft copy of those twenty five candidates in question and also all other recommendations made by the Commission for Group-C and Group-D posts (now we are concerned with Group-D posts only) between the time period of December, 2019 to February, 2020 and they have declared that they can produce it if it is required. The

Board has also said that they have also issued approximately 25,000 appointment of teachers and non-teaching staff from 2018 and for all those appointments the same method has been followed. From this averment I understand that the recommendations came from the Commission, be it West Bengal Central School Service Commission or West Bengal Regional School Service Commission, and accordingly the Board issued the appointment letters.

Here lies the most important question. If the Commission or its regions did not issue any such recommendation letters which reached the Board's office, then how the Board issued the appointment letters. The Board has said that they received all such recommendation letters including a pen drive containing all such recommendation letters.

Therefore, which is that invisible hand who prepared and sent the recommendation letters to the Board's office and which are the invisible hands who issued the recommendation letters as have been annexed under the signature of the Chair Person of the Regional School Service Commissions as has been disclosed by the Board?

Corruption writ large in the whole process of this public employment which is required to be dealt with in a firm hand.

I expressed my view earlier that this state of affairs require an investigation by Central Bureau of Investigation and today I am going to pass such an order.

However, learned Advocate General Mr. Mookherjee has submitted that - a) no affidavit was called for from the State; b) Nobody has alleged that the police of the State is ineffective to conduct an enquiry; and c) A special investigation team can be constituted from the investigating agencies and officers of this State.

He has also submitted that in the rarest of the rare cases CBI enquiry is directed in such cases.

Learned advocate for the Commission has drawn my attention to the pleadings and the prayers stating that there is no allegation against any such authority, including the police authority, stating that the police authority cannot investigate the matter and, therefore, though the court's hands are not tied in such a situation, CBI enquiry is not required. When CBI enquiry is required, as to that, Mr. Dutta, learned senior advocate, has drawn my attention to a case reported in (2018) 15 SCC 480 and different paragraphs thereof. I have perused those paragraphs including paragraph 27, 28, 29 etc. and I find that the Supreme Court here laid down certain principles in respect of transferring a case from police authority of

a State to the CBI. Mr. Dutta has also submitted that the police authority of the State is competent enough to investigate into this matter and it is not that the State is fighting this case in favour of some persons who did the utterly illegal act.

Mr. Sen, who appeared for last two days in this matter for the State, (Mr. Advocate General came for the first time today and he said that as he was on his legs before other court, he could not appear earlier) submitted that any retired Judge of this High Court or more than one retired Judges may be engaged by this court to enquire into the matter.

Mr. Datta also supported that and the petitioners on the last occasion also did not raise any objection for investigation by any retired Judge/Judges of this court.

However, after getting the affidavit of the Board today, I find that CBI enquiry (not any investigation at this stage) is required to identify the miscreants in this matter by whom some letters of recommendations were issued and the Board acted on that. On the basis of the Board's affidavit today I find that the Commission is not acting in clear hands.

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 will be left out of this enquiry.

CBI should also enquire a very important part of this serious illegality and irregularity as to whether there is any money trail in issuance of such recommendation letters and subsequent issuance of appointment letters to the persons.

The preliminary report is to be filed before this court on 21st December, 2021 when further orders in this matter will be passed.

Without showing any disrespect to the police force of this State, I am passing this order giving the responsibility to the CBI only for the reason that both the authorities, the Commission and the Board, as also the police authority are controlled by the State. This is a matter of Education Department which is a State department and in such matters to instill confidence in the public as to the fairness in the appointment in posts for which money from the public exchequer would be spent there should be one enquiry by an impartial agency. I observe that the miscreants, there must be some persons behind this whole corrupt affair, whatever be their position in the society or in the polity, cannot be really political persons - they can take shelter under different political parties. So CBI should look into the extreme irregularity in this appointment from that angle also.

Today the petitioners have named some persons, 542 in numbers, with their addresses. I direct the petitioner to file a tabular list annexing the recommendation letters or appointment letters which has come into their possession indicating in the said table the name of those persons, the dates of recommendations and dates of their appointment letters. This is to be filed by the petitioner on 24th November, 2021 at 3 p.m. and a copy thereof, including copies of all other affidavits used in this matter including the writ application, is to be handed over to the learned advocate of the CBI day after tomorrow at 3 p.m.

542 persons whose names have been disclosed today starting from serial no. 34 to serial no. 556 are added as party respondents in this matter by this court.

I have already passed an order directing the Commission that they will serve copies of the writ application upon the parties to be added as respondents. Now that order is slightly modified - the Commission will serve all pleadings upon them by registered post with acknowledgment due.

List this matter on 24th November, 2021 at 3 p.m.

(Abjihit Gangopadhyay, J.)

Later:

Learned Government Pleader has prayed for stay of the operation of the order of enquiry by the CBI which has been vehemently opposed by Mr. Bhattacharya, the learned senior advocate for the petitioner.

I have considered such prayer for staying the operation of this order as to CBI enquiry and the prayer is rejected.

(Abjihit Gangopadhyay, J.)