
(2020) 03 CAL CK 0047

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 4598 Of 2020

Abinash Nath & Ors

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 06-03-2020

Acts Referred:

Citation : (2020) 03 CAL CK 0047

Hon'ble Judges : Amrita Sinha, J

Bench : Single Bench

Advocate : Subir Syanal, Partha Sarkar, Abhijit Basu, Ayan Banerjee, Suman Banerjee

Judgement

Amrita Sinha, J

The petitioners are the Councilors of the Basirhat Municipality. They are also the members of the Selection Committee for direct recruitment of

Group-D employees in the Municipality. The petitioners were inducted in the Selection Committee on 1st September 2016.

The Municipality published a public notice for filling up twenty vacant posts in March 2015. The last date for submitting the applications was 10th April

2015. The recruitment process however got stalled in view of the Municipal General Election, 2015.

In 2016, the Chairman of the Municipality sought permission from the Director of Local Bodies to continue the recruitment process. The Municipality

published a further advertisement in February 2018 inviting applications from eligible candidates for filling up the vacant posts on different groups

under the Municipality. The last date of receiving the application was 16th March 2018.

The Municipality thereafter held a meeting of the Selection Committee for direct recruitment to the various posts on 23rd September 2019. The

petitioners were present in the meeting and they raised their objection with regard to continuance of the recruitment process, which was initiated in the

year 2015 and again in the year 2018. The petitioners raised the objection that since the West Bengal Municipal Service Commission Act, 2018 was

promulgated in the meantime and the Act came into force on and from 2nd January 2019, the Municipality ought not to proceed with the recruitment

any further. The petitioners proposed that the recruitment process ought to be conducted in accordance with the Municipal Service Commission Act.

The petitioners also raised objection with regard to the appointment of agencies for conducting the recruitment examination. The petitioners proposed

that prior to proceeding with the recruitment examination the Municipality should seek the observation and opinion of the Directorate of Local Bodies.

The Municipality has published an advertisement on 29th February 2020 fixing up 8th March 2020 and 15th March 2020 as the date for holding the

recruitment examination.

The petitioners categorically submit that the private agency that has been appointed for the purpose of conducting the examination does not have the

necessary expertise to test the eligibility of the candidates and, accordingly, the recruitment examination ought not to be held by them.

The petitioners pray for a direction upon the respondent authorities not to proceed with the recruitment examination any further.

The learned advocate appearing on behalf of the Municipality submits that prior to proceeding with the recruitment process the Chairman sought

opinion from the Directorate of Local Bodies by a letter dated 22nd October 2019. The Directorate of Local Bodies by a letter dated 5th December

2019 gave opinion to the Municipality to re-start the recruitment process in respect of the applications received pursuant to the Employment

Notification for the years 2015 and 2018. It was specifically mentioned that the recruitment process can be restarted without any fresh advertisement.

The Municipality submits that only after taking the opinion from the Directorate of Local Bodies, the recruitment process has been restarted and the

same ought not to be stalled once again.

Since it appears that the recruitment process has proceeded to a substantial

extent in the meantime and the examination is fixed day after tomorrow, the candidates may suffer if the examination is stalled at this stage.

What has to be decided in the writ petition is that whether the Municipality can proceed with the recruitment process which was initiated in the years

2015 and 2018 even after promulgation of the West Bengal Municipal Service Commission Act, 2018.

The matter cannot be decided without granting an opportunity to the respondents to file their affidavit.

The respondents are directed to file affidavit-in-opposition within a period of three weeks from date. Reply, if any, be filed within two weeks thereafter.

The matter shall be treated as ready for hearing after completion of affidavits.

The Municipality may proceed with the recruitment examination as scheduled but the Municipality is restrained from publishing the panel of selected candidates without the leave of the court.

None appears on behalf of the State respondent in spite of service.

Affidavit of service filed in court is taken on record.

The petitioner is directed to communicate this order to the non-appearing respondents and file fresh affidavit of service on the next date fixed for hearing.

Urgent Photostat certified copy of this order, if applied for, be given to the parties after completion of necessary formalities.