
(2017) 09 CAL CK 0018
In the Calcutta High Court
Case No : 27717 (W) of 2015

Bimal Chandra Mondal

APPELLANT

Vs

The State of West Bengal & Ors.

RESPONDENT

Date of Decision : 07-09-2017

Acts Referred:

Citation : (2017) 09 CAL CK 0018

Hon'ble Judges : Debangsu Basak

Bench : SINGLE BENCH

Advocate : Ekramul Bari, Tanuja Basak, Kashi Kanta Moitra, A.K. Lahiri, Kaberi Ghosh

Judgement

1. A memo dated October 16, 2015 issued by the District Inspector of Schools (Secondary Education), Purulia approving a panel of the post of Assistant Headmaster of Gobindapur High School is under challenge at the behest of one of the panelists. Learned Advocate appearing for the petitioner submits that, the petitioner participated in a selection process for the purpose of appointment of Assistant Headmaster of the School. The selection committee recommended a panel for the purpose of consideration of the managing committee. The petitioner was the first empanelled candidate in such selection process. The panel, with the petitioner as the first empanelled candidate, was sent by the managing committee to the District Inspector of Schools, for approval. The District Inspector of Schools while granting the approval, by the

impugned memo, reorganized the panel and granted approval to the appointment of the third empanelled candidate as appearing in the panel approved by the managing committee. He submits that, the District Inspector of Schools does not have such a power. He relies upon a memo bearing No. 1628-GA dated July 10, 2002 and 2012 Volume 2 Calcutta High Court Notes (Cal) page 644 (Dev Prasad Sarker v. State of West Bengal & Ors .) in support of such contentions. He also relies upon an unreported decision of the Court rendered in W.P. No. 19757 (W) of 2007 dated September 12, 2007 (Kakali Bandyopadhyay v. State of West Bengal & Ors .) in support of such contentions.

2. Learned Advocate appearing for the State submits that, the petitioner does not have the requisite qualification to be granted approval to the post of Assistant Headmaster. The District Inspector of Schools had given approval to one of the panelist who has a better academic qualification and experience in service than that of the petitioner. The District Inspector of Schools had deducted the marks granted in favour of the participants in accordance with law. After such deduction, the private respondent whose appointment to the post of Assistant Headmaster has been approved by the District Inspector of Schools, is entitled to be granted such an approval. Reliance is placed on the memo dated July 10, 2012 particularly clause 3(C), (D) and (E) of such memo.

3. Learned Senior Advocate for the private respondent submits that, the private respondent is better qualified both educationally and experience wise than the petitioner. The petitioner should not have been placed as the first empanelled candidate by the selection committee. The selection committee has overlooked the relevant consideration at the time of preparation of the panel. In the event, the panel as prepared by the selection committee is approved by the

District Inspector of Schools then, the authorities would be placing premium upon a person obtaining the higher qualification without the requisite process of law as against a person who obtains such higher qualification by following the law. According to him, the petitioner obtained the higher qualification without the due process of law and, therefore, such higher qualification cannot be counted for the purpose of award of marks in the selection process. Such marks, if deducted, then the private respondent is the first empanelled candidate in the selection process. Therefore, the District Inspector of Schools did not err in recasting the panel and granting approval in accordance with the recast panel.

4. Dev Prasad Sarker (*supra*) is of the view that, even though an Assistant Teacher does not enjoy the Master Degree scale then also his Master Degree qualification cannot be ignored by the selection committee while preparing the panel for the post of Assistant Teacher in a Government aided secondary school. There are two circulars which appear to govern the field. One is a memo No. 1353-GA dated June 21, 2012 which says that, awarding of marks for Post Graduate qualification would tantamount to recognizing the enhanced qualification as well as scale. In such view, the District Inspector of Schools was requested not to award Post Graduate marks in favour of such teachers at the time of selection of Assistant Headmaster. There is a subsequent circular dated February 26, 2015 which is of the view that, if an Assistant Teacher appointed in a Post Graduate or Honours Graduate pay scale has Honours Degree or Master Degree qualification, from a recognized institution, before or after joining the service, then marks should be awarded to him on the basis of such degree for the preparation of panel for the post of Assistant Headmaster irrespective of the fact that, he does not have any kind of approval

from the District Inspector of School for such degree. The unreported decision in *Kakali Bandyopadhyay (supra)* is of the view that, the school as well as the other authorities should take into account the educational qualification of the Assistant Teacher concerned rather than the pay scale enjoyed by her while considering her candidature to the post of Assistant Headmistress. The guidelines for the requirement of an Assistant Headmaster appear from memo no. 1628-GA dated July 10, 2002. Such memo, in my view, does not authorize the District Inspector of Schools to recast the panel as selected by the selection committee and approved by the managing committee of a school and sent to the District Inspector of Schools for its approval. However, the District Inspector of Schools is in a position to say that, the panel so prepared by the selection committee and approved by the managing committee is not in accordance with law. In such a case, he is entitled to remand the panel for reconsideration by the school authorities. In the facts of the present case, the District Inspector of Schools has proceeded to recast the panel on his own. He ought not to have done so. In such circumstances, the impugned memo by which the District Inspector of Schools has recast the panel and granted approval to the appointment of the private respondent as an Assistant Headmistress is quashed. The District Inspector of Schools is at liberty to consider the panel sent for approval, in accordance with law and in terms of the observations made herein.

5. W.P. No. 27717 (W) of 2015 is disposed of. No order as to costs.

6. Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.