

(2019) 01 CAL CK 0067

In the Calcutta High Court

Case No : Writ Petition (W.p) No. 17688, 21173, 21174 , 21322, 23699, 24438 ,
(W) Of 2017 With Can 672, 673, 674, 675, 676, 698, 4523, Of 2019

Ekramul Bari

APPELLANT

Vs

State And Other

RESPONDENT

Date of Decision : 22-01-2019

Acts Referred:

Citation : (2019) 01 CAL CK 0067

Hon'ble Judges : Shekhar B. Saraf, J

Bench : Single Bench

Advocate : Ekramul Bari, Biswarup Biswas, S.S. Mandal, Rafiqul Islam,
Animesh Bhattacharya, Bhaskar Prasad Vaisya, Pinaki Dhole, Suman Dey

Final Decision : Disposed Off

Judgement

Several applications have been filed in relation to the above writ petitions challenging the action of the West Bengal Central School Service Commission (hereinafter referred to the 'Commission) with regard to not publishing the results of the writ petitioners pertaining to the State Level Selection Test, 2017 for appointment to the post of Headmaster/Headmistress.

Mr. Bari, learned Counsel appearing on behalf of the writ petitioners in all the above matters submits that by an earlier order in W.P. No.21174(W) of 2017 with CAN11543 of 2017, this Court on December 13, 2017 had directed the Commission to allow the writ petitioners to appear in the personality tests and to publish the final results subject to the result of the writ petition. The operative part of the order is delineated below:

"Accordingly, this Court directs the respondent nos.3 and 4 to allow the applicant to sit in the said written examination, which is scheduled on 17th December, 2017, and in the event the applicant comes within the zone of consideration, he should also be allowed to appear in the personality test and the Commission shall also publish the final results subject to the result of the writ petition."

Mr. Bari further submits that the website of the Commission in the case of the writ petitioners shows the status as "hold due to court case". He, therefore, submits that the petitioners have not been allowed to take part in the counselling process that is starting on January 24, 2019. He submits that this is in contravention to the order passed on December 13, 2017. He further submits that in the event the counselling process is allowed to continue, the writ petitioners, even if they succeed in the writ petitions, would not have a level playing field with the other candidates as the other candidates would have been allowed to go through the counselling process and would have been allowed to obtain schools of their choice. Mr. Bari again submits that in none of the writ petitions there has been any affidavit filed by either the State respondents or the Commission.

Per contra, Dr. Patra, learned Counsel appearing on behalf of the Commission, submits that the order of December 13, 2017 had directed the Commission to publish the final results subject to the result of the writ petition. He submits that the results have been published except for all the writ petitioners whose writ petitions are pending. According to him, unless the writ petitions are heard out, these results cannot be published and have to be kept on hold.

The State is also represented by Mr. Dhole and he fairly submits that affidavits have not been filed by them.

I have heard the learned Counsel appearing on behalf of the parties.

In light of the above, I find that the actions of the Commission are, prima facie, not as per the order dated December 13, 2017. I also find that the State respondents and the Commission have been extremely lackadaisical in their approach to this issue by not filing their affidavits when such direction for affidavits were given as early as in July, 2017. No proper explanation is forthcoming as to why these affidavits have not been filed.

In my opinion, in matters of such importance where lives of hundred of persons are involved, the State and the Commission should work at a war footing to have the matters heard out and have the writ petitions finally decided. It may also be added that the petitioners themselves have also not made any efforts to have the writ petitions finally heard. It is to be noted that in the event the counselling processes are to go forward, the writ petitioners would be greatly prejudiced, as in the event they succeed in the writ petitions, though they shall be eligible for appointments, they shall lose their chance of getting the school of their choice.

On the other hand, if the names of the writ petitioners are included in the merit list, that has been published by the Commission and, thereafter, the writ petitioners fail in the writ petitions, other candidates would suffer the same result.

In such view of the matter, the only option left is to stay the counselling process for a limited period so that the writ petitions may be heard out and the matters

be finally decided.

Accordingly, I stay the process of counselling that is to take place on and from January 24, 2019 for a period of one month or until further orders, whichever is earlier.

All the applications connected to the writ petitions being CAN 672 of 2019, CAN 673 of 2019, CAN 674 of 2019, CAN 676 of 2019, CAN 698 of 2019, CAN 4523 of 2018 and CAN 675 of 2019 are disposed of accordingly.

All the writ petitions be listed for final hearing as "Specially Fixed Matters" on January 29, 2019 at 10-30 a.m. The respondents are at liberty to file their affidavit-in-opposition in the meantime, if so advised.