
(2026) 01 CAL CK 0407
In the Calcutta High Court
Case No : MAT No. 517 Of 2024

Mirja Abdul Alim

APPELLANT

Vs

State of West Bengal and others

RESPONDENT

Date of Decision : 06-01-2026

Acts Referred:

Citation : (2026) 01 CAL CK 0407

Hon'ble Judges : Supratim Bhattacharya, J;Sabyasachi Bhattacharyya, J

Bench : Division Bench

Advocate : B. N. Ray, Shetparna Ray, Suman Dey

Final Decision : Disposed Of

Judgement

Sabyasachi Bhattacharyya, J

1. The present appeal has been preferred against an order whereby the learned Single Judge has dismissed the writ petition preferred by the appellant on the ground of lack of locus standi.
2. The brief backdrop is that the appellant applied for employment in a Group-D post in a High School.
3. Initially, there was a chequered history, which culminated in an order dated August 6, 2010 being passed in WP No. 16413(W) of 2010, wherein a learned Single Judge of this Court observed that the District Inspector was to convey his decision on the panel in accordance with law to the Managing Committee of the school as well as the petitioner within thirty days from date of receipt of a copy of the said order.
4. It was further observed that since prior permission was issued on May 27, 2008, the amendments effected subsequently in the West Bengal School Service Commission Act, 1997 (in short "the 1997 Act") with effect from 14.1.2009 shall not be construed as a bar for approving the panel.

5. Thus, the present appellant was permitted to be considered for empanelment irrespective of the subsequent amendments effected in the 1997 Act.

6. Thereafter, the petitioner/present appellant secured the top position in the panel, which was sent for approval to the District Inspector. However, the District Inspector, on certain grounds, disapproved the panel, challenging which the writ petition was filed.

7. The learned Single Judge, upon consideration of the arguments of the parties, was pleased to observe that the law is well-settled that a candidate, merely by virtue of being empanelled, does not acquire any right or vested right to challenge the selection process or the panel so long the panel is not approved and the candidate does not receive the appointment.

8. While holding so, the learned Single Judge took into consideration several judgments cited on behalf of the parties.

9. Learned counsel appearing for the appellant contends that despite the position of law being that merely by empanelment, no vested right of appointment accrues in favour of the successful panelist, that does not mean that a candidate who topped the panel cannot even challenge the disapproval of such panel by the District Inspector.

10. It is submitted that since the rights of the appellant are directly affected by the order of the District Inspector, such infraction of the petitioner's rights conferred locus standi on the petitioner to challenge such disapproval.

11. Learned counsel further submits that the writ petitioner/appellant has otherwise made out a good case on merits in the writ petition.

12. However, we do not enter into such arguments on merits at this stage, since the writ petition was dismissed by the impugned order was only on the ground of locus standi.

13. Learned counsel appearing for the State controverts the contentions of the appellant and submits that by virtue of the challenge thrown against the disapproval of the empanelment, the petitioner/present appellant, indirectly, is seeking appointment, which right is not available merely by virtue of empanelment. It is argued that the fallout of the petitioner succeeding in the challenge against the disapproval of the panel, if at all, would be that the panel would have to be approved and as a logical corollary, the appellant would be getting the appointment.

14. Since it is well-settled that mere empanelment does not confer any right of appointment, it is argued that the writ petitioner/appellant cannot get indirectly what he cannot get directly.

15. It is further submitted that the District Inspector passed a reasoned order

and disapproved the panel. Since the challenge preferred to the same by the School itself was subsequently not proceeded with, the petitioner, in his individual capacity, did not have any locus standi to challenge the disapproval.

16. Upon considering the arguments of the parties, we find that there is a distinction between no vested right being conferred on a person, who has been empanelled, to get the appointment and the right of the successful panelist to challenge the disapproval of the panel itself.

17. The result of the disapproval of the panel, which was assailed by the appellant in his writ petition, would be that the writ petitioner/appellant would lose the very opportunity to get appointment.

18. Even if an empaneled person does not have an accrued right to be appointed merely by virtue of such empanelment, yet a person whose name appears at the top of the panel definitely has the right at least to be considered for such appointment.

19. Since the approval of the panel or the disapproval of the same directly affects the said opportunity of the writ petitioner to be even considered for appointment, this Court is of the opinion that the rights of the writ petitioner/appellant were directly affected by the disapproval.

20. This case is a typical scenario, where although the writ petitioner might have a grievance that the disapproval of the panel was unlawful, thereby conferring a right on the writ petitioner/appellant, the successful panelist, to challenge the same, such right would not fructify, which would be hit by the doctrine of ubi jus ibi remedium.

21. Accordingly, we feel that the judgment of the Hon'ble Supreme Court in the matter of East Coast Railway and another vs. Mahadev Appa Rao and others reported at (2010) 7 SCC 678, which was cited before the writ court, would be apt in the facts of the instant case.

22. In the said case, an examination was cancelled and no reason and/or valid reason was assigned for such cancellation, under which circumstances it was observed that the writ petition by a candidate was maintainable.

23. Although the learned Single Judge distinguished the said judgment, with utmost respect, the ratio of the said judgment is applicable to the present case.

24. It is to be noted that in East Coast Railway (supra) the Hon'ble Supreme Court had observed that even if the examination was cancelled without assigning any valid reason, a candidate would have the locus standi to maintain a writ petition. By necessary implication, even if a reasoned order was passed cancelling the examination, a challenge against the same would lie at the behest of a candidate on the ground that the reasons assigned in the order were not valid.

25. Similarly, in the present case, the panel, which was topped by the writ

petitioner/appellant, was disapproved by the impugned order of the District Inspector, which directly and adversely affected the right of the writ petitioner/appellant to be considered for appointment, thereby conferring locus standi on the writ petitioner/appellant to challenge the disapproval.

26. It is made clear that such a challenge, even if successful, would not automatically translate into conferment of a vested right on the petitioner to get appointment but would only stop at the stage of approval of the panel, which would subsequently be followed up by the process of appointment.

27. In view of the above considerations, we are of the opinion that the learned Single Judge erred in law in dismissing the writ petition on the ground that the writ petitioner/appellant did not have locus standi to prefer the writ petition.

28. Accordingly, MAT No. 517 of 2024 is allowed on contest, thereby setting aside the impugned judgment dated February 8, 2024 passed in WP No. 13385(W) of 2011 and remanding the matter to the learned Single Judge now having determination for the purpose of re-adjudication of the writ petition on merits upon giving opportunity of hearing to both sides.

29. The respondents in the writ petition shall file their respective affidavits-in-opposition to the writ petition within three weeks from date before the learned Single Judge. Affidavit-in-reply thereto, if any, shall be filed within a week thereafter.

30. Liberty is given to the present appellant to approach the writ court, in view of the long pendency of the matter, seeking expeditious hearing of the writ petition.

31. Accordingly, CAN 1 of 2025 is disposed of as well.

32. There will be no order as to costs.

33. Urgent photostat certified copy of the order, if applied for, be supplied to the parties at an early date.