

(2013) 06 CAL CK 0017
In the Calcutta High Court
Case No : Writ Petition No. 1060 (W) of 2013

Sri Narayan Mondal

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 27-06-2013

Acts Referred:

Citation : (2013) 4 WBLR 896

Hon'ble Judges : Debasish Kar Gupta, J

Bench : Single Bench

Advocate : Tapabrata Chakraborty and Abhijit Basu, for the Appellant;
Sanghamitra Ghosh, Paromita Pal for the State and Shibasis Chatterjee for the
Respondent No. 6, for the Respondent

Final Decision : Disposed Off

Judgement

Debasish Kar Gupta, J.—This writ application is filed by the petitioner assailing an order passed by the respondent No. 3 under Memo No. L.C.-557/1(3), dated June 18, 2012. By virtue of the impugned order, the respondent No. 3 rejected the panel prepared for appointment of a non-teaching staff (Group-D) of Herobhanga Vidyasagar Vidyamandir (H.S.), District-South-24 Parganas. The petitioner participated in the selection process in question and his name appeared on top of the panel sent to the respondent No. 3 for approval.

2. Having heard the learned Counsel appearing for the respective parties as also after considering the facts and circumstances of this case, I find that the ground for rejecting the panel is as follows:-

The panel of Group "D" which was submitted to the Managing Committee for its approval but the Managing Committee did not approve the panel and rejected it as it is illegal. They forwarded it to the District Inspector of Schools (Secondary Education), South 24-Parganas for its final approval.

3. The respondent No. 3 discharged a statutory function in the matter of approval of the panel in question in accordance with the provisions of the West

Bengal Schools (Recruitment of Non-teaching Staff) Rules, 2005 and the provisions of Clause (b) of sub-rule (7) of Rule 9 of the aforesaid Rules were relevant for resolving the dispute with regard to the issue involved in the matter and the above provisions are set out below:-

(7)(b) - The appointing authority shall, within fifteen days from the date of submission of the panel by the selection committee, examine the panel and, along with all relevant papers, submit the same to the District Inspector of Schools for his approval.

4. In view of the above, the panel prepared for appointment of a non-teaching staff of a recognized Non-Government Educational Institution has to be sent by the Managing Committee of the school concern to the District Inspector of Schools with all relevant papers. Therefore, there was no question of approval or disapproval of the above panel by the Managing Committee of the school concerned. In the instant case, there was an adverse observation in the resolution of the Managing Committee of the school, dated January 20, 2009 with regard to the validity of the panel made by the Managing Committee of the school concern. In accordance with the provisions, the respondent No. 3 was under obligation to consider the panel taking into account the above observation, but in case of disagreement with that observation, there was no bar under the Rule and it was upto the respondent No. 3 either to agree or disagree with that observation. Instead of the respondent No. 3 rejected the panel on the basis of the above observation without formation of any independent opinion.

5. In view of the above, the impugned order suffered from procedural impropriety and the same is quashed and set aside.

6. The respondent No. 3 is directed to take a decision in respect of the panel in question in the light of the observations made hereinabove within a period of six weeks from the date of communication of this order and to communicate the same to the school concern and amongst others within two weeks thereafter.

7. It is made clear that this Court has not expressed any opinion with regard to the validity of the above panel.

8. This writ application is, thus, disposed of.

9. There will, however, be no order as to costs. Urgent photostat certified copies of this order, if applied for, be given to the parties on priority basis.