
(2012) 02 CAL CK 0055
In the Calcutta High Court
Case No : Writ Petition No. 13425 (W) of 2009

Ujjwal Ray @ Ujjal Roy

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 24-02-2012

Acts Referred:

Citation : (2012) 02 CAL CK 0055

Hon'ble Judges : Jyotirmay Bhattacharya, J

Bench : Single Bench

Advocate : Amal Baran Chatterjee, Mr. Sukumar Ghosh and Mr. Sandip Ghosh, for the Appellant; Sudip Sarkar for the Respondent Nos. 5 and 6, Mr. Anadi Banerjee for the Respondent No. 7 and Mr. K.J. Tewari, Panchanan Hazra for the Respondent No. 8, for the Respondent

Final Decision : Allowed

Judgement

Hon'ble Justice Jyotirmay Bhattacharya

1. The legality and/or validity of the order passed by the District Inspector of School (Secondary Education), Hooghly, on 3rd July, 2009, being annexure "P/1" to the writ petition at page 21, is under challenge in this writ petition.
2. Let me now consider as to how far the concerned District Inspector of Schools (S.E.) was justified in passing the impugned order in the facts of the instant case. The facts leading to the filing of the writ petition are briefly stated hereunder.
3. The petitioner along with several other candidates participated in the selection process for the post of Group-D Staff in Pratapnagar Ramoni Mohan Vidyaniketan in the District of Hooghly. Interview of the candidates was held by the Selection Committee on 1st November, 2008. After holding the interview a panel was prepared by the Selection Committee. The petitioner occupied the first position in the panel. The private respondent no.8 occupied the second position in the said panel. The said panel was accepted by the Managing Committee of the said

school and the same was forwarded to the concerned District Inspector of Schools for his consideration on the subject of approval thereof.

4. A dispute cropped up with regard to the petitioner's credential to participate in the said selection process. The respondent no.8 claimed that the petitioner is an ineligible candidate for the said post as he did not have the requisite educational qualification for the said post. The minimum educational qualification for the said post was prescribed as eight passed.

5. The petitioner claims that the petitioner possesses requisite educational qualification. In fact, he produced the progress report and his transfer certificate issued by the School authority of Pirijpur Hameddunessa Vidyapith to show that he was promoted to Class IX after passing the annual examination of Class VIII in the said school in the academic session 2002-2003. The school authority allowed him to participate in the selection process after being satisfied with regard to his credential.

6. Since some doubt was expressed by the private respondent about the genuineness of the eight passed certificate of the petitioner, an enquiry was held by the concerned District Inspector of Schools for ascertaining the genuineness of the certificate submitted by the petitioner in support of his educational qualification. Such inquiry was held on the basis of an earlier order passed by this Court in an earlier writ petition between the parties.

7. Despite the school authority which issued the said certificate, confirmed that the certificate which was submitted by the petitioner in support of his educational qualification was issued by the school authority and the same was genuine, the concerned District Inspector of Schools after causing a robbing inquiry, expressed his doubt about the genuineness of the said certificate as he found certain irregularities in the official records maintained by the school authority creating confusion as to the identity of the person in whose favour such certificate was, in fact, issued. In course of such enquiry the District Inspector of Schools found that in some places of the school records the name of the father of Ujjal Roy was mentioned as Sanat and in some places of the school records the name of the father of Ujjal Roy was mentioned as Santinath Ray. He also found that even the address of Ujjal Roy was recorded in some places as Pratapnagar and in some places as Dakshin Rasulpur. He also noticed certain irregularities in the process of issuance of the transfer certificate by the school authority in his favour. The total marks obtained by him in half yearly examination as mentioned in the documents submitted by him do not tally with the marks recorded in the school's register. Thus, the said District Inspector of School after taking note of those discrepancies between the documents submitted by the petitioner and the school's record, came to the conclusion that the document produced by the petitioner is not a genuine document and as a result, he refused to approve the panel in question.

8. The said decision of the concerned District Inspector of schools is under

challenge herein.

9. Though the concerned District Inspector of Schools expressed his doubt about the identity of the petitioner and thereby came to a conclusion that the certificate which was produced by the petitioner was not the certificate issued in favour of the petitioner, but in fact, none of the parties ever complained that the petitioner was never admitted in the said school or he utilized the certificate issued by the school authority in favour of another Ujjal Roy who is not the petitioner herein. It is also not the case of any of the parties that there were more than one Ujjal Roy in the same section in the same class of the said school and the certificate issued in favour of the another Ujjal Roy was utilized by the petitioner. The series of documents namely, the transfer certificates issued by the different school where he studied from time to time and the admission register of the school which he attended lastly show that the date of birth of Ujjal Roy, was 4th April, 1986. This date of birth of Ujjal Roy is uniformly mentioned in all the transfer certificates issue by different schools which he attended from time to time. The said Ujjal Roy whose date of birth was 4th April, 1986 was admitted in the school viz. Pratapnagar Ramoni Mohan Vidyaniketan vide Admission No. 145 of 1997, on 10th May, 1997. It is nobody's case that another Ujjal Roy of a different address who was also born on 4th April, 1986 also took admission in the said school on 10th May, 1997 and his transfer certificate was utilized by the petitioner.

10. Name of the father of Ujjal Roy was mentioned in some places of the school records as Sanat and in some places Santinath Ray. But such discrepancy in recording the father's name of a student cannot lead this Court to doubt the identity of the petitioner unless it is established that there was another student in the same class named Ujjal Roy who happens to be as son of a different person.

11. There may be some incorrect entry in the school register as regards the address of a candidate but since the candidate concerned does not have any access to such record in usual course of business, it is very difficult for a candidate to locate such incorrect entries in the school register. The school authority confirmed the genuineness of the transfer certificate issued in favour of the petitioner. The concerned Additional District Inspector also countersigned the transfer certificate which was issued in favour of the petitioner by the school authority. As such the genuineness of the certificate cannot be doubted.

12. That apart address cannot be the only and sole decisive factor for identification of a person. A person may change his address very frequently, but with the change of address, the identity of the person is not changed. Then again a person may have more than one address at the same time, one may be permanent address at a particular place and he may have different address where he resides temporarily. Thus, the identity of the petitioner cannot be doubted because of mentioning of two different address of the petitioner in school register, unless it is proved that a different person residing in the other address also took admission in the said school in the same section in which the

petitioner was placed.

13. Under such circumstances, this Court is of the view that the concerned District Inspector of Schools ought not to have come to the conclusion that the certificate which was produced by the petitioner was not the genuine certificate merely because of certain incorrect entries in the school register over which the petitioner had no hand, despite the school authority confirmed the genuineness of the petitioner's eight passed certificate and the transfer certificate. Before coming to such conclusion, the concerned District Inspector of Schools ought to have verified the signature of the person who received the transfer certificate from the school authority. There must be some acknowledgment of the person who received the said transfer certificate from the school. If the signature of the person who received the said transfer certificate tallies with the signature of the petitioner and/or any of his guardians or the person who received it on behalf of the petitioner's guardian then it can be safely presumed that the said transfer certificate was issued to the petitioner.

14. Even assuming that the total number which the petitioner obtained in the half yearly examination in Class VIII was wrongly recorded in his progress report, but still then such wrong recording itself cannot prove that the certificate was not genuine as the issuing authority certified its genuineness and the total number which the petitioner obtained in the annual examination as mentioned in his progress report tallies with the entries in the school register.

15. Thus, on overall assessment of the pleadings of the parties and particularly the affidavits of the school authority which confirms the genuineness of the said certificate, this Court holds that the eight passed certificate which was produced by the petitioner before the school authority in support of his credential, is a genuine document and thus, his credential for the said post cannot be doubted.

16. The impugned order, thus, stands set aside. The concerned District Inspector of Schools is directed to approve the panel so that the selection process can be completed as early as possible.

17. The writ petition is, thus, allowed.

18. Urgent xerox certified copy of this judgment, if applied for, be given to the parties as expeditiously as possible.

Jyotirmay Bhattacharya, J.

Later

19. After delivery of this judgment, learned Advocate, appearing for the respondent No.8, prays for stay of operation of the order at least for a limited period. Such prayer of stay is opposed by the learned Advocate, appearing for the petitioner.

20. However, considering the submission of the learned Advocates of the parties, this Court passes an order staying the operation of the impugned order for a

period of four weeks from date.

Jyotirmay Bhattacharya, J.