
(2024) 05 CAL CK 0045
Calcutta High Court (Appellete Side)
Case No: WPA No. 5071 Of 2011

Sutapa Hatai

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision: May 22, 2024

Acts Referred:

- West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995 - Rule 3, 4, 5
- West Bengal Schedule Castes and Scheduled Tribes (Identification) Act, 1994 - Section 8, 8A, 9A, 9(1), 9(2)

Hon'ble Judges: Partha Sarathi Chatterjee, J

Bench: Single Bench

Advocate: Ekramul Bari, S.S. Mandal, Md. Imtiaz Uddin, Jayanta Samanta, Supriya Majumder, Usha Maiti, Sakya Maity

Final Decision: Dismissed

Judgement

Partha Sarathi Chatterjee, J

Preface:

1. An order ofÂ cancellation ofÂ the petitionerâ€™s socialÂ status certificate which has thrown her job in the state of uncertainty is the axis of the controversy in the present lis.

Petitionerâ€™s case:

2. In order to appreciate the controversy, it would be apt to advert to the necessitous facts, as frescoed in the writ petition.

3. In terms of the letter of appointment dated 15.02.1997 issued by the Managing Committee of the Dubra Adarsha Vidyamandir (in short, the school),

the petitioner joined the school in the post of Group-IV staff (Matron) on 17.02.1997 and her appointment was approved by the District Inspector of

Schools vide. his memo. dated 21.02.1997. Suffice it to observe that the post was reserved for the candidate belonging to Scheduled Caste (in short, SC).

4. Sometimes in 2011, on the basis of a complaint lodged by one Monoranjan Mahato, Secretary of the OBC Sangram Committee, Jhargram, a proceeding came to be initiated by the Sub-Divisional Officer, Jhargram to ascertain the authenticity of social status certificate of the petitioner.

5. Eventually, by an order dated 23rd February, 2011, the Sub-Divisional Officer, Jhargram cancelled the petitioner's caste certificate vide. no.

14/TW(SC) of 1994. The Sub-Divisional Officer vide. his letter dated 25.02.2011 communicated the order of cancellation of the caste certificate to the petitioner.

6. The order of cancellation of the petitioner's social status certificate put her service in jeopardy. As such, the petitioner has ventured out to knock at the door of this Court in quest of a writ of mandamus or appropriate order or orders to save her job upon annulment of the order cancelling her caste certificate.

7. The petitioner questioned the tenability of the order dated 23.02.2011 on the grounds that she was not served with the complaint lodged by Mr.

Monoranjan Maity. As such, omission to supply such complaint offended the principles of natural justice. The caste certificate was cancelled in

derogation of the guidelines issued under a memo. dated 30.04.2010. In terms of the guidelines, the authority was required to hold a preliminary inquiry

first and in case, such inquiry indicates anything adverse against the certificate, then only the authority could have resorted to discreet inquiry. A

further ground was taken by her that the petitioner was asked to produce documents containing declarations of five to ten persons from her locality

but according to the petitioner, as sufficient documentary evidence were available to resolve the issue, there was no requirement to call for such

declarations.

Stand taken by the school authority:

8. Despite direction, the State has not used any affidavit-in-opposition. The school authority has submitted its affidavit, as directed.

9. In its affidavit, the school authority took the stand that the Additional Director of Schools concerned vide. his letter 28.03.2011 requested the school

authority to take appropriate action in terms of the order dated 23.02.2011 cancelling the petitioner's caste certificate and submit an action-taken

report. Accordingly, the Managing Committee adopted a resolution on 12.04.2011 and issued a show-cause notice to the petitioner on 13.04.2011

seeking her response thereto within the time specified therein.

10. The petitioner opted not to respond to the show-cause notice. On the other hand, her learned advocate shot off a legal notice dated 20.04.2011 to

the school authority threatening to take legal action against it in case any adverse step was taken against her in derogation of the interim order passed

in W.P. no. 5071(W) of 2011.

11. In terms of the resolution adopted in its meeting held on 29.04.2011, the incidents were briefed to the Director of School Education and D.I. of

schools concerned.

12. As per instruction of the Additional D.I. of Schools, as contained in his letter dated 22.6.2011, payment of monthly salary of the petitioner was

stopped since June, 2011.

13. By his letter dated 6.6.2011, the Secretary, West Bengal Board of Secondary Education (in short, the Board) asked the school authority to take

steps in terms of the Management Rules, 1969. As such, the Managing Committee convened a meeting on 13.06.2011 and all the members of the

committee unanimously resolved to terminate the petitioner's service.

14. After lapse of almost 11 years, the D.I. of Schools vide. his memo. Dated 20.04.2022 requested the school authority to comply with the order

dated 8.9.2011 passed in CAN 8326 of 2011 preferred by the petitioner in connection with the writ petition.

15. The D.I. of Schools vide. his memo. dated 31.03.2023 requested the school authority to submit the hard copies of the option and fixation of the

salary of the petitioner as per ROPA, 2019. Such copies were duly sent to the D.I. of Schools.

Case-record:

16. Record reveals by an interim order dated 16.03.2011 passed in this writ petition, the respondents were asked to stay their hands in giving effect to the order of cancellation of the petitioner's social status certificate.

17. Since June, 2011, the respondents stopped payment of her salary. In such conspectus, the petitioner took out an application being CAN 8326 of 2011 seeking a direction upon the concerned respondents to release her salary. By an order dated 8.9.2011, the application was disposed of with the following direction:

“to release her admissible salary which still remains unpaid to her, provided she had discharged her duties regularly for the period in

question. Such payment should be made to the petitioner within three weeks from date.

Needless to mention here that the concerned authority is required to go on paying the current salary to the petitioner month by month

subject to fulfilment of the aforesaid condition.”

18. Subsequent thereto, with a complaint of wilful violation of the order dated 8th September, 2011, a contempt petition being CPAN 149 of 2012 was preferred.

19. Record postulates that on 28th July, 2023, on the basis of submissions advanced on behalf of the alleged contemnors on the score that the order dated 8.9.2011 had been already complied with, the contempt petition was disposed of.

Submissions:

20. Mr. Bari learned advocate appearing in support of the writ petition strenuously contended that due to omission to supply the copy of the complaint

lodged by one Mr. Maity, entire proceeding for cancellation of caste certificate stood vitiated. He argued that a third party has no locus standi to

challenge the petitioner's caste certificate. Inviting my attention to the provisions of Section 8A of the West Bengal Schedule Castes and

Scheduled Tribes (Identification) Act, 1994 (in short, the Act of 1994), he sought to argue that only the screening committee is empowered to cancel a

caste certificate. He hammered on the point that the petitioner has been rendering her service but the respondents have withheld her salary without having any cogent reason.

21. It was urged by him that to wriggle out of rigors of the contempt proceeding, three monthsâ€™ salary were paid to the petitioner. He prayed for a direction for payment of salary before finally deciding the writ petition. In aid of his contentions, he relied upon two decisions, reported at (1994) 6

SCC 241 (Kumari Madhuri Patil and Another vs. ADDL. Commissioner Tribal Development & Ors.); 2024 SCC OnLine SC 494 (Navneet Kaur

Harbhajansing Kundles alias Navneet Kaur Ravi Rana vs. State of Maharashtra & Ors.) and one unreported judgment i.e. WPA 7202 of 2020, Pulak

Tung & Ors. vs. The State of West Bengal & Ors.

22. In response, Ms. Maity, learned advocate appearing for the school authority laid immense emphasis on the point of maintainability of the writ

petition. According to her, the petitioner has invoked the extra-ordinary jurisdiction of this Court without exhausting efficacious alternative remedy.

Taking me to the provision of Section 8 of the Act of 1994, she sought to convince the Court that before knocking at the door of this Court directly, the

petitioner should have preferred an appeal under the provisions of Section 8 of the Act.

23. She asserted that by practicing fraud upon the competent authority, the petitioner procured her caste certificate and misrepresenting herself to be a

candidate belonging to SC community, she secured the job. She stressed on the point that a fraud vitiates everything and no right including the right to

get salary accrued to the petitioner. According to her, a direction for payment of any single penny from the public exchequer would be justified.

24. She defended the decision of the Sub-Divisional Officer contending that upon scrutiny of the oral and documentary evidence placed before him,

the SDO cancelled the caste certificate and this court exercising the power of judicial review cannot sit in appeal over such decision. To invigorate her

contention, she cited a decision, reported at 2024 SCC OnLine SC 528 (PHR Invent Educational Society vs. UCO Bank of Ors.), two unreported

decisions, one rendered by the Honâ€™ble Supreme Court in Civil Appeal no. 4448 of 2021(Shri Saurav Jain & Anr. Vs. M/s. A.B.P. Design & Anr)

and the other one by a Honâ€™ble Division Bench of this Court in WPA 30649 of 2016 (Baishakhi Bhattacharyya (Chatterjee) & Ors. vs. State of

West Bengal & Ors.), which was adjudicated along with other similar writ petitions.

25. Mr. Samanta, learned advocate appearing for the state adopted the submissions advanced by Mrs. Maity and he submitted that originally, there

was no provision for appeal against the order of cancellation of caste certificate. However, in 2022, by way of amendment, a provision being Section

9A has been introduced into the Act of 1994 to address the gap and allow such appeal.

Analysis:

26. Heard the learned advocates and perused the materials on record.

27. Before going to delve into the contour of controversy, let me first address the issue of maintainability of the writ petition.

28. The provisions of Section 8 of the Act of 1994 is the beacon light to indicate the resolution of the issue. Section 8 of the Act of 1994 is quoted as

follows:

â€œ8. Appeal against refusal to issue certificate :-

(1) An appeal against any refusal under section 7 to issue any certificate shall lie--

(a) to the District Magistrate, or the Additional District Magistrate authorised by the District Magistrate in this behalf, where the certificate

is refused by the Sub-Divisional

(b) to the Commissioner, Presidency Division, where the certificate is refused by the District Magistrate, South 24-Parganas, or the

Additional District Magistrate, South 24-Parganas, authorised by the District Magistrate, South 24-Parganas, under clause (b) of section 5,

as the case may be:

Provided that every such appeal shall be made in such manner and within such time as may be prescribed: Provided further that every such

appeal shall be disposed of within three months from the date on which the appeal is made:

Provided also that no such appeal shall be disposed of without giving the appellant a reasonable opportunity of being heard.

(2) The decision of the District Magistrate or the Additional District Magistrate or the Commissioner, Presidency Division, as the case may be, on any appeal under sub-section (1) shall be final.â€

29. Therefore, a bird eyeâ€™s view on the provisions of Section 8 of the Act of 1994, would reveal that this provision only prescribed an appeal against the order of refusal to issue certificate. Before 2022, there was no provision for appeal against the order of cancellation of caste certificate and as such, to suppress the mischief, the legislature incorporated amended provisions of Section 9A (quoted herein below) by West Bengal SC and ST (Amendment) Act, 2022.

30. Needless to state at the time of initiation of the present action, there was no provision for appeal against the order of the cancellation of the caste certificate. In view thereof, the submission as advanced by Mr. Maity on the issue of the maintainability of the writ petition lacks merit.

31. Mrs. Maity reminded of well recognised norms that a writ Court cannot sit in appeal over the order of cancellation of the caste certificate. There cannot be any quarrel in accepting the settled proposition of law that the scope of judicial review needs to be confined to decision making process and the Court exercising such power should not sit in appeal over the administrative decision. The Court can travel to the restricted area for limited purpose only to find out whether or not the decision is based on no evidence. In the case at hand, neither of the parties have invited the Court toÂ bargeÂ intoÂ prohibitedÂ area.Â AsÂ such,Â theÂ CourtÂ doesÂ notÂ findÂ any justification behind such petrified fear and/or anxiety of Mrs. Maity.

32. However, entering into the core area of the conflict at hand, one can find that the post was reserved for SC candidate. The petitioner represented herself as a candidate belonging to SC category and acting on such representation, she was appointed in the post. Since her date of joining i.e. since 17.02.1997 till May, 2011 she rendered her service and drew salaries.

33. For clarity and convenience, it would be apt to reproduce the relevant provisions of Act of 1994 which are as follows:

â€2. (a) ""Committee"" means the state scrutiny Committee constituted under section 8A for verification of social status of a person in whose

favour a certificate is issued under section 5.

â€¦..

(c) "Scheduled Castes" shall have the same meaning as in clause (24) of article 366 of the Constitution;

3. Identification of members of Scheduled Castes:-

Any person belonging to any of the castes, races or tribes or parts of or groups within castes, races or tribes, specified in Part XIII of the

Schedule to the Constitution (Scheduled Castes) Order, and resident in the locality specified in relation to him in that Part of such Schedule,

may be identified, by a certificate, to be a member of the Scheduled Castes.

â€¦..

5. Issue of certificate of identification :-

A certificate under section 3 or section 4 may be issued,--

(a) in the district, by the Sub-divisional Officer of the sub-division concerned, and

6. Procedure of issue of certificate :-

A certificate under this Act may be issued on application by the person requiring the certificate under this Act in such form and manner, and

upon production of such evidence, as may be prescribed.

â€¦..

8A. Constitution of State Scrutiny Committee and its :-

(1) The State Government may, by order, constitute a Committee to be called the state Scrutiny Committee to be called the State Scrutiny

Committee for verification of social status of a person in whose favour a certificate is issued under section 5.

(2) The Committee shall consist of the following Members:-a) the Secretary, Backward Classes Welfare Department, Government of West

Bengal. Explanation.-Secretary shall include a special secretary. Chairperson;

b) The Commissioner, Directorate of Backward Classes Welfare, West Bengal or any officer not below the rank of Deputy

Director, duly authorized by him, Convenor; c) the Director, Cultural Research Institute, Backward Classes Welfare Department or any

officer not below rank of Deputy Director, duly authorised by him. Expert Member.

(3) Subject to any general or special order of the State Government, provisions of this Act and rules made thereunder,

the Committee shall have powers-

a) to verify the social status of a person in whose favour a certificate is issued under section 5;

b) to issue direction to the Vigilance Cell constituted under section 8B;

c) to make an inquiry in connection with the contravention of any provision of this Act;

d) to issue notice to any person or authority in such manner as may be prescribed;

e) to call for information from any person or authority for the purpose of satisfying itself whether there has been any contravention of any

provision of this Act or any rule or order made or direction issued thereunder;

f) to require any person or authority to produce or deliver any document or thing useful or relevant to the inquiry;

g) to examine any person acquainted with the facts and circumstances of the case;

h) to issue direction under sub-section (2) of section 9 to the certificate issuing authority;

i) to do such other things and perform such other acts not inconsistent with the provisions of this Act as may appear to be necessary or

expedient for the proper conduct of its function, or which may be prescribed.

(4) The Committee shall meet at such place and time, and the meeting shall be conducted in such manner, as may be prescribed.

(5) All order or direction of the Committee shall be authenticated by the Chairperson or by such officer of the Committee as may be

authorised by the Chairperson on this behalf.]

9. Power to cancel, impound or revoke certificate.

Amendment of section 9:-

(1) If the certificate issuing authority is satisfied that a certificate under this Act has been obtained by any person by furnishing any false

information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of

forgery, it may cancel, impound or revoke such certificate in such manner as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), if the Committee is satisfied that a certificate under this Act has been obtained by

any persons by furnishing any false information or by misrepresenting any fact or by suppressing any material information or by producing

any document is an act of forgery, it may issue a direction to the certificate issuing authority, in such manner as may be prescribed, to

cancel, impound or revoke such certificate and, on receipt of such direction, the certificate issuing authority shall, by order in writing,

cancel, impound or revoke such certificate.

9A. Appeal against cancellation etc. of certificates :-

1[9A. Appeal against cancellation etc. of certificates

(1) An appeal against any cancellation, impounding or revocation of the certificate under sub-section (1) of section 9 shall lie-

(a) to the District Magistrate, or the Additional District Magistrate authorised by the District Magistrate in this behalf, where the certificate

is cancelled or impounded or revoked by the Sub-Divisional Officer, and

(b) to the Commissioner, Presidency Division, where the certificate is cancelled or impounded or revoked by an officer authorised under

clause (b) of section 5, as the case may be: Provided that every such appeal shall be made in such manner and within such time as may be

prescribed: Provided further that every such appeal shall be disposed of within three months from the date on which that appeal has been

made: Provided also that no such appeal shall be disposed of without giving the appellant a reasonable opportunity of being heard.

(2) The decision of the District Magistrate or the Additional District Magistrate or the Commissioner, Presidency Division, as the case may

be, on any appeal under sub-section (1) shall be final.]

1. Inserted by the West Bengal Scheduled Castes and Scheduled Tribes (Identification) (Amendment) Act, 2022 (13 of 2022), S. 2 [28-11-

2022].â€

34. Admittedly, the SDO concerned happens to be certificate issuing authority and he was clothed with the power to cancel the caste certificate issued in favour of any person on the basis of his/her application.

35. A bare perusal of the above quoted provisions would reveal that there is no bar to initiate an action on the basis of an application submitted by any person questioning the authenticity of a caste certificate. There is no legislative fiat to undertake an enquiry to find out the locus standi of the applicant before proceeding to verify the caste certificate. The prefatory words of the Section 9 of the Act of 1994 indicates that if the certificate issuing authority is satisfied that any caste certificate was obtained by practicing fraud, giving false information etc., he may cancel such certificate.

36. The West Bengal Scheduled Castes and Scheduled Tribes (Identification) Rules, 1995 has prescribed the procedures to be followed while cancelling a caste certificate. The reproduction of Rules 3, 4 and 5 of the Rules would be instructive, which read thus:

3. Procedure for cancellation, impounding or revocation of certificate :-

(1) Whenever it appears to a certificate issuing authority on complaints by any person or suo motu that a person, in whose favour a

Scheduled Caste or Scheduled Tribe certificate has been issued, does not belong to such caste or tribe, the certificate issuing authority shall

hold a preliminary enquiry by itself or by any officer above the rank of Inspector of the Scheduled Castes and Tribes Welfare Department,

as may be authorised by it in this behalf, and shall prima facie satisfy itself as to the truth or otherwise of the complaints as aforesaid,

record the reasons of its satisfaction as to the truth or otherwise of the complaints and, if necessary, start proceedings for cancellations,

impounding or revocation of the certificate, as the case may be.

(2) Where any proceedings have been started under sub-rule (1) , the certificate issuing authority shall, by written notice, ask the person

holding the certificate to deposit the same, in original, in its office and, when a certificate has been so deposited, a receipt in favour of the

person depositing the certificate shall be issued.

(3) The certificate issuing authority shall, then, issue a notice to the holder of the certificate to show cause within fifteen days or within a

period of shorter duration as it may think fit, as to why the certificate issued in his favour shall not be cancelled, impounded or revoked on the grounds stated in the notice.

(4) (a) On the expiry of the period referred to in sub-rule (3), the certificate issuing authority shall fix a date of hearing of the case by

notice to the complainant and the holder of the certificate, asking them to bring oral witness or documentary evidence against, or, as the

case may be, in support of, the caste or the tribe identity of the holder of the certificate.

(b) A copy of the notice issued to the complainant, if any, and the holder of the certificate, shall be affixed to the notice board of the office

of the certificate issuing authority for the information of the public.

(c) The service of any notice under these rules shall be governed by the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

4. Order for hearing etc. to be in writing:-

Any order by the certificate issuing authority for the purpose of hearing of the witness giving evidence against, or, as the case may be, in

support of, the caste or the tribe identity of the holder of the certificate or of such other person as it deems necessary to hear, or for the

purpose of inspection of any document or material object, shall be in writing.

5. Cancellation,Â Â impoundingÂ Â orÂ Â revocationÂ Â of certificate :-

When the certificate issuing authority is satisfied that the person, in whose favour the certificate was issued, does not belong to the caste or

the tribe as stated in the certificate, it shall, by order, cancel, impound or revoke the certificate and shall notify such cancellation,

impounding or revocation to the person to whom the certificate was issued and also to the authority, if any, before which the certificate was

produced by the holder of the certificate for gaining benefits.â€

37. Therefore, the certificate issuing authority can undertake such enquiry on the basis of application presented by any person and even suo moto. A

cursory glance at the order dated 23.02.2011 reveals that the Block Development Officer concerned held the preliminary inquiry.

38. Mr. Bari stressed on the point that the complaint of Mr. Monoranjan Maity who set the ball rolling had not been provided to the petitioner. As

such, the proceeding was commenced and concluded in wanton violation of the principles of natural justice.

39. It is well ingrained proposition of law that mere plea of procedural irregularity or violation of natural justice etc. will not suffice, the person

complaining of such violation is to make out a case that due to such irregularity and/or violation he has been prejudiced or due to such irregularity or

violation, miscarriage of justice prejudicial to his interest has occasioned. I may profitably refer the judgment delivered in case of State of U.P. "vs-

Sudhir Kumar Singh, reported in AIR 2020 SC 5125, wherein it was ruled that where procedural and/or substantive provisions of law embody the

principles of natural justice, their infraction per se does not lead to invalidity of the orders passed, prejudice must be caused to the person complaining

of the non-observation of principle of natural justice.

40. The petitioner had never made any prayer for supply of such complaint to her and no materials have been produced before me to convince me to

infer that the petitioner was prejudiced in protecting her caste certificate or in absence of such complaint, she misunderstood the nature of the

proceeding and became unable to raise her defence.

41. From the order of the SDO dated 23.02.2011, it would be explicit that upon appreciation of evidence, the SDO arrived at a categorical finding that

the predecessors of the petitioner migrated from Bangladesh to India and they settled in Madhya Pradesh. Then they settled in West Bengal. From the

deed produced before the authority, it revealed that their sub-caste was mentioned as "Sadgope" and such sub-caste has not been identified as

Scheduled Caste in the State. The petitioner was afforded sufficient opportunity to prove authenticity of her caste certificate but she could not prove

its validity by any oral and documentary evidence nor could she disprove the fact by any evidence aliunde.

42. Mr. Bari heavily relied upon two decisions rendered in case of Kumari Madhuri Patil & Anr. (supra) and Navneet Kaur Harbhajansing Kundles

alias Navneet Kaur Ravi Rana (supra) to contend that only the screening committee is empowered to cancel the caste certificate. There is no scintilla

of doubt as regards the binding effect of these judgments but those are distinguishable on facts. On bare perusal of the provision of Section 9 of the Act of 1994, it would reveal that though in sub-section (2) of Section 9, which was prefaced with non obstante clause, empowers the committee to verify and cancel the caste certificate but such power is not in derogation of the power of the certificate issuing authority to cancel the certificate conferred upon it in sub-section (1) of Section 9.

43. Mr. Bari cited another decision rendered in WPA no. 7202 of 2020 but this judgment was delivered in absolutely different factual context. Such judgment shall not come to the rescue of the petitioner.

44. The next question which comes is whether or not it would be apt to direct to pay any salary to the petitioner. Admittedly, by an interim order dated 8.9.2011, direction was given upon the respondents to pay off all unpaid salaries and go on paying current salary month by month. Neither the State nor the school authority filed any application for vacating the interim order and even, neither of them did prefer any appeal against the order dated 8.9.2011 and even, during the pendency of the contempt proceeding, three monthsâ€™ salary was paid to the petitioner.

45. Admittedly, the caste certificate was issued in her favour on the basis of the information supplied by the petitioner. As such, she procured the certificate by giving false information and by way of misrepresentation. Such act is nothing but fraud. She induced the respondents to act on such mistaken belief that the petitioner is a candidate belonging to SC community. At the cost of reiteration, it may be stated that the post was reserved for SC candidate. Such subsequent discovery of truth must entail termination of her job.

46. Therefore, the job which is nothing but a contract between the employer and employee is void ab initio. As such, the petitioner will not derive any right from such contract i.e. from her job. In such conspectus, I am of the considered view that the petitioner has lost her right to recover the unpaid salaries and even, she cannot claim any salary for the period of her employment. It is well renowned principle of law that a man can be deprived of his legal rights if he acts in such way as would make it fraudulent for him to set up his rights.

Conclusion:

47. Therefore, what flows from the above discussion is that there was no irregularity, least to say any illegality in the proceeding. I do not find any flaw in decision making process which could have prompted me to hold that the petitioner has been prejudiced. No materials are available to hold that the decision is based on no evidence. As such, for the above reason, the only analogy which can be drawn is that the SDO concerned following the prescribed procedure and upon appreciation of the evidence has rightly scrapped the petitioner's caste certificate. No substantial miscarriage of justice is apparent in the order and in decision making process.

48. It goes without saying that as the post was reserved for SC candidate and the petitioner does not belong to SC community, she was not eligible for the post and as such, her appointment was illegal.

49. The petitioner joined in Group-D post. As such, I restrain my temptation to direct her to pay back the salaries she has drawn so far. I request the respondents not to reclaim the salaries she has received till May, 2011.

Order:

50. In view thereof, no interference is called for in the writ petition and accordingly, the same is dismissed, however, without any order as to the costs.

51. Parties shall be entitled to act on the basis of a server copy of this Judgement and Order placed on the official website of the Court.

52. Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.