

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

Hon'ble Justice Soumitra Pal, Hon'ble Chairman.  
& Hon'ble Mr. P. Ramesh Kumar, Administrative Member.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>16</p> <hr/> <p>10.1.2019.</p>	<p style="text-align: center;"><u>OA 644 of 2015.</u></p> <p style="text-align: center;">LAB ROY + 5 ORS – vs- STATE OF W.B. &amp; ORS.</p> <p>For the Applicants : Mr. D.N. Ray, Mr. P.K. Sanyal, Mr. G. Halder, Advocates.</p> <p>For the State Respondent : Mr. A.L. Basu, Mr. S. Bhattacharjee, Advocates.</p> <p style="text-align: center;"><u>OA 670 of 2015.</u></p> <p style="text-align: center;">SUSANTA KUMAR GIRI &amp; 15 ORS– vs-STATE OF W.B.&amp;ORS</p> <p>For the Applicants : Mr. D.N. Ray, Mr. P.K. Sanyal, Mr. G. Halder, Advocates.</p> <p>For the State Respondent : Mr. A.L. Basu, Mr. S. Bhattacharjee, Advocates.</p> <p style="text-align: center;">Since issues are similar, by consent of Mr. D.N. Ray, learned advocate for the applicant and Mr. A.L. Basu, learned advocate for the state respondent, OA 644 of 2015 and OA 670 of 2015 are taken up for hearing analogously. For the sake of brevity and clarity, the facts stated in OA 644 of 2015 are mentioned in the order.</p>	

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	<p>In this application the applicants, who had applied for Group "D" post under the Irrigation and Waterways Directorate, have prayed for a direction upon the respondent authorities to issue appointment letters in their favour considering their empanelment in the Western Circle, Paschim Medinipore, although the said panel was not published on the ground of alleged nepotism and favouritism, which is according to them is yet to be established. Relying on the statements in the application and referring to the written reply and rejoinder, it is submitted on behalf of the applicants that since their names were empanelled and was widely published, they should be appointed. In this regard, our attention has been drawn to the order of the Supreme Court of India dated 13<sup>th</sup> August, 2013 passed in <i>Buddhadeb Ruidas &amp; Ors – Vs- State of W.B. &amp; Ors</i> and also the order dated 20<sup>th</sup> February, 2015 passed in the contempt proceedings. Mr. D.N. Ray, learned advocate for the applicant submits that since the names of the candidates were empanelled and as the Supreme Court in its order dated 20<sup>th</sup> February, 2015 had given leave to approach the appropriate forum if aggrieved by the communication/ letter, this application has been filed.</p>	

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	<p>Since the names of the petitioners appear in the selected list of the candidates, they may be directed to be appointed.</p> <p>Mr. A.L. Basu, learned advocate appearing on behalf of the State, referring to the reply, particularly paragraphs 7,8 and 9 thereof, submits that the order of the Supreme Court dated 13<sup>th</sup> August, 2013 have been complied with in totality and as the names of the applicants were not in the select list, they are not eligible for appointment. The applicants herein were in the selection process conducted by the Sub- Committee no. 3 which was cancelled by order of the Secretary, Irrigation and Waterways Department under memo dated 27<sup>th</sup> July, 2010 as per the recommendation of the Chairman, Central Selection Committee of South Bengal for procedural defects and the said rejection was circulated through newspaper publication in the edition dated 24<sup>th</sup> July, 2010 of Ananda Bazar Patrika. As the present applicants were not included in the select list and thus no communication/letters were issued to them. Since the selection process under sub -committee 3 was cancelled , the question of withholding of result does not arise. Submission is the statements in the reply particularly in</p>	

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	<p>paragraphs 7, 8 and 9 thereof have not been controverted in the rejoinder, particularly in paragraphs 9, 10 and 11 .</p> <p style="text-align: center;">Heard learned advocate for the parties.</p> <p>It appears that the names of the selected candidates, that is the applicants herein, were before Sub-committee 3 and the entire selection process under Sub-committee 3 was rejected/cancelled by the order of the Secretary in the memo dated 21<sup>st</sup> July, 2010 as per recommendation of the Chairman, Central Selection Committee of South Bengal due to procedural defects. As it was rejected, the applicants were not included in the select list and thus no communication was issued to them. The said cancellation order was published on 24<sup>th</sup> July, 2010 in Ananda Bazar Patrika. In view of the rejection of the panel, the question of withholding of the panel, as alleged, does not arise. We also find that the averments made in paragraph 7,8 and 9 of the reply have not been effectively dealt with in the rejoinder.</p> <p>During hearing, on a query the learned advocate for the applicant has submitted that this application has been moved pursuant to the leave granted in paragraph 7 of the order dated 20<sup>th</sup> February,</p>	

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Skg.	<p>2015 passed in the contempt proceedings. Looking at the Supreme Court order dated 20<sup>th</sup> February, 2015 we find that in paragraph 6 of the said order the authorities were directed <i>“to issue appropriate communications/letters to those candidates/petitioners who could not be issued letters of appointment.....”</i> and in paragraph 7 if aggrieved <i>“by the said communication/letter”</i> the Supreme Court had granted <i>“liberty to approach the appropriate forum for appropriate relief in accordance with law”</i>. In the instant case on a query the learned advocate for the applicant submitted that he has not received any communication/letter. As the applicants were not issued any communication/letter, the submission that they were at liberty to approach the appropriate forum, that is the Tribunal, cannot be accepted. Therefore, for the reasons as aforesaid, there is no merit in the applications. The applications are dismissed.</p> <p style="text-align: center;">Urgent Photostat certified copy of this order, if applied for, be furnished on priority basis.</p> <p>(P. Ramesh Kumar) Member(A).</p>	(Soumitra Pal) Chairman.

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