

**Jugesh Kumar Singh Vs. the State of West Bengal and ors.**

**Jugesh Kumar Singh Vs. the State of West Bengal and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/1161800](http://sooperkanoon.com/1161800)

**Court :** Kolkata

**Decided On :** Jul-31-2014

**Judge :** Debasish Kar Gupta

**Appellant :** Jugesh Kumar Singh

**Respondent :** The State of West Bengal and ors.

**Judgement :**

G.A.No.2337 of 2014 W.P.No.563 of 2014 IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction ORIGINAL SIDE In the matter of: Jugesh Kumar  
Singh Versus The State of West Bengal & ORS.And Ashish Kumar Tiwari & ORS.  
Applicants BEFORE: The Hon'ble JUSTICE DEBASISH KAR GUPTA Date : 31st  
July, 2014.

For Writ Petitioner : Mr.Bikash Ranjan Bhattacharya, Sr.Adv.Mr.Aninda Bose,  
Adv.For Respondent No.4 : Mr.P.S.Deb Burman, Adv.Mr.M.Nazar Chowdhury,  
Adv.For Applicants : Mr.Anjan Bhattacharya, Adv.G.A.No.2337 of 2014 The Court  
: None appears on behalf of the State respondents when the matter is called on.

No accommodation is prayed for.

Since an application for addition of party is filed in this matter, the same is taken  
up first.

This is an application filed by the applicants for addition of parties challenge in the writ application.

in the writ application The subject matter of is the order passed by the District Inspector of Schools(SE).Kolkata referring the matter to the Commissioner of Education, West Bengal relating to approval of a panel prepared for appointment of Headmaster of Shree Balkrishna Vithalnath Vidyalaya, Kolkata.

The petitioners are working for gain as Assistant Teachers of the above school.

According to the applicants, the selection process for appointment of Headmaster of the above School was initiated during the Puja vacation adopting a procedure which was not in conformity with the recruitment rules in vogue.

According to the applicants, all of them were out of station at the material point of time.

They came to know the fact of preparation of a panel for appointment of Headmaster in the above school on or about April 2, 2014 by which the District Inspector of Schools(SE).Kolkata forwarded the panel of selected candidates to the Commissioner of School Education, West Bengal.

It is also submitted on behalf of the applicants conducted Hindu, a newspaper.

on that the daily the basis to of newspaper According representation selection the to an under advertisement which the process was not applicants, Commissioner of a reference published State they School in level was The daily submitted Education, a West Bengal as also the District Inspector of School(SE).Kolkata, which was received by the addressee on April 16, 2014.

It is submitted by the learned Senior Counsel appearing on behalf of the writ petitioners that one Om Prakash Singh, an Assistant Teacher of the School under reference was present in the meeting of November the 16, application).Managing 2013 Committee (Annexure Presence of P-8 of the at page representative above of 42 School of the teachers in dated writ the meeting of the Managing Committee means that he was present in the meeting in the capacity of teachers

representative unless the resolution adopted in the meeting contains any contrary observation.

It is also submitted by the learned Senior Counsel that in the representation submitted before the Commissioner of School Education as also the District Inspector of Schools, Kolkata, the aforesaid Om Prakash Singh was the fiRs.signatory along with the petitioners. Therefore it does not lie on the mouth of the petitioners that the selection process was conducted behind their back.

I have heard the learned Counsel appearing for the respective parties and I have considered the facts and circumstances of this case.

A person may be allowed to be a party for participation in a proceeding in a court of law on the ground that the decision of the proceeding may affect the interest of the applicant and the full and complete adjudication of the proceedings is not possible in absence of the applicant.

Reference may be made to the decision of Udit Narayan Singh Malpaharia versus Additional Member Board of Revenue, Bihar & Anr., reported in AIR 1963 SC786 and the relevant portions of the above decision are set out below : (7) To answer the question raised it would be convenient at the outset to ascertain who are necessary or proper parties in a proceeding.

The law on the subject is well settled; it is enough if we state the principle.

A necessary party is one without whom no order can be made effectively; a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. The above proposition of law has been repeated and reiterated time and again by the Honble Supreme Court on different occasions relying upon the above provision.

Reference may also be made to the decision of Amit Kumar Shaw & Anr.

versus Farida Khatoon & Anr., reported in (2005)11 SCC403 and the relevant portions of the above decision are quoted below : 9.

The object of Order 1 Rule 10 is to discourage contests on technical pleas, and to save honest and bona fide claimants from being non-suited.

The power to strike out or add parties can be exercised by the court at any stage of the proceedings.

Under this rule, a person may be added as a party to a suit in the following two cases: (1) when he ought to have been joined as plaintiff or defendant, and is not joined so, or (2) when, without his presence, the questions in the suit cannot be completely decided.

10. The power of a court to add a party to a proceeding cannot depend solely on the question whether he has interest in the suit property.

The question is whether the right of a person may be affected if he is not added as a party.

Such right, however, will necessarily include an enforceable legal right. So far as the question of adverse effect with regard to the adjudication of the issue of the validity of the panel under reference is concerned, it is not in dispute, as appears from the materials on record, that the selection process under reference was initiated on the basis of a resolution adopted on August 10, 2013.

It was followed by publishing an advertisement in The Hindu on October 29, 2013.

The interview took place on December 4, 2013.

December 5, 2013 and Managing Committee the same approved was forwarded above to the panel on District Inspector of Schools(SE).Kolkata by the Secretary of the Managing Committee of the above School on December 10, 2013.

The aforesaid teachers representative Sr.Om Prakash Singh was present in the above meeting of the Managing Committee.

No material is placed on record that any of the applicants raised his little finger against the above selection process at the material point of time.

Therefore, there is no scope of adverse effect of the decision of the proceeding to a person who did not make any attempt to take part in the above selection process.

None of the applicants had any role to play in the matter of preparation of the panel under reference.

Therefore it does not lie on their mouth that the complete and full adjudication of this proceeding is not possible without their participation.

The Court cannot keep its eyes closed to the admitted fact that in the representation submitted by the petitioners to the respondent authorities contained the signature of the aforesaid Om Prakash Singh as number one signatory.

It was well within the knowledge of the aforesaid Om Prakash Singh being the signatory of the representation submitted before the authorities.

No explanation is made available to this Court for which applicants are entitled to be added as party respondents to this proceeding considering their conducts in keeping silence at the material point of time though the fact was within the knowledge of the teachers representation.

It is settled principle of law that a person taking a calculated chance to appear before the interview board after the conclusion of that interview is not permissible, he cannot turn around to challenge the above process.

Reference may be made to the decision of Madan Lal versus State of Jammu Kashmir reported in (1995) 3 SCC 486 and the relevant portion of the above decision are quoted below: 9.

Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview.

Up to this stage there is no dispute between the parties.

interview. The petitioners conducted by the who appeared Members at the concerned oral of the Commission who interviewed the petitioners as well as the contesting respondents concerned.

Thus the petitioners took a chance to get themselves selected at the said oral interview.

Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition.

It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.

In the case of Om Prakash Shukla v.

Akhilesh Kumar Shukla it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should petitioner. not have granted any relief to such a This case stands on a better footing in view of the fact that they did not participate in the selection process.

It is necessary point out that there is no explanation of failure on the part of the applicants for taking no steps at the material point of time.

Therefore, they cannot be added as party respondents to this proceeding applying the settled proposition of law in respect of the admitted facts and circumstances recorded hereinabove.

This application stands rejected.

There will, however, be no order as to cost.

Urgent certified photocopies of this order be made available to the parties, if applied for, upon compliance with all requisite formalities.

(Debasish Kar Gupta, J.) / SN AKGoswami

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**