

Performance Appraisal Report) for the year 2018, which were relevant for the assessment. He contends that the promotion was effected by the application of the impugned Office Order dated 03.06.2020 which he submits is impermissible in law, as the same could not have been acted upon, being issued after the promotion order had been passed on 09.03.2020. He further submits that the Office Order dated 03.06.2020 (Annexure-IV), called the 'The MeSEB Service Regulations, 1996 [since adapted by the MeECL (Removal of Difficulties)] Order' dated 03.06.2020, whereby Regulation 39 (4) the MeSEB Service Regulations, 1996 was altered, was without any authority in law, and the respondents could not have taken recourse to the same in determining the final suitability of the candidates for promotion.

4. Mr. S. Sen submits that as the promotion has already been effected in such a manner, the writ petitioner is highly apprehensive that he will be deprived of future promotion, as the next DPC is likely to sit in the month of August-September, 2020. He therefore prays that in the interim some protection be given to the writ petitioner.

5. Mr. N. Mozika, learned senior counsel in reply, at the outset has raised questions as to the maintainability of the instant writ petition by first contending that the amendment to clause 4 of Regulation 39 of the MeSEB Service Regulations, 1996 which was effected on 06.03.2019 has not been put to challenge and secondly that, alternate efficacious remedy for such grievances concerning promotion is available in Regulation 42 of the MeSEB Service Regulations, 1996, which provides for the review of an order of promotion by the Board on its own motion or otherwise. He strongly contends that the writ petition being disabled for these reasons is liable to not be entertained by this Court.

6. Mr. A. Kumar, learned AG has also raised similar objections.

7. Having heard learned counsels for the parties, the matter it is seen, deserves further consideration on maintainability, as well as on the facts and law governing the same. Accordingly, the respondents No. 2 to 7 and 9 are directed to file a detailed affidavit on all aspects within a period of 2(two) weeks from today.

8. List this matter on 19.08.2020 for further orders and for report of service on respondent No. 8.

9. Needless to add, any promotion to any vacant post of Chief Engineer (Electrical) will be subject to the final outcome of this writ petition.

JUDGE

Meghalaya
03.08.2020
"V. Lyndem-PS"

