

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.86/2021

1. Kazi Sirajul Islam, S/O. Lt. Kazi Abdul Latif, Resident of Village and Post Office- Rabindranagar, P.S.- Sonamura, District:-Sepahijala, Age-44.
2. Abdul Hassem, S/O. Ali Akbar, Resident of Village:-N.C. Nagar, Durgapur, P.O. and P.S.:-Sonamura, District:-Sepahijala, Age-44.
3. Md. Jahir Hossain, S/O. Abdul Malek, Resident of Village:-N.C. Nagar, Durgapur, P.O. and P.S.:- Sonamura, District:-Sepahijala, Age-33.
4. Abdul Hashem, S/O. Lakhi Mamud, Resident of Village & P.O.:- Bejimara, Near G/P. Office, P.S.:- Sonamura, District:-Sepahijala, Age-54.
5. Bahar Miah, S/O. Lt. Tarab Ali, Resident of Village:-Sonarpur, P.O.:- Rabindra Nagar, P.S.:- Sonamura, District:-Sepahijala, Age-43.
6. Md. Abul Kashem, S/O. Md. Nurul Islam, Resident of Village:-Panchnalia, P.O.:- Motinagar, P.S.:- Sonamura, District:-Sepahijala, Age-45.
7. Abdul Rahaman, S/O. Lt. Md. Abdul Mobin, Resident of Village:- Balardhepa, P.O.:- Rabindra Nagar, P.S.:- Sonamura, District:-Sepahijala, Age-46.
8. Saiyed Ullah, S/O. Lt. Abid Ali, Resident of Village:-U.N.C. Nagar, P.O.:- Motinagar, P.S.:- Sonamura, District:-Sepahijala, Age-53.
9. Jahirul Islam, S/O. Suruj Miah, Resident of Village & P.O.:- Durgapur, P.S.:-Sonamura, District:-Sepahijala, Age-45.

..... Appellant(s)

V E R S U S

1. The State of Tripura, represented by its Joint Secretary to the Department of General Administration (Confidential & Cabinet), Government of Tripura, P.O.- Kunjaban, P.S.- New Capital Complex, District-West Tripura.
2. The Secretary-Cum-Commissioner, Department of School Education, Government of Tripura, New Secretariat Complex, P.O.:- Kunjaban, P.S.- New Capital Complex, District-West Tripura.
3. The Director of School Education, Government of Tripura, P.O.-Agartala, P.S.- West Agartala, District-West Tripura.

4. The State Level Madrasa Advisory Committee, Represented by the Director of School Education, Government of Tripura, P.O.:-Agartala, P.S.-New Capital Complex, District:-West Tripura.

5. The Secretary Cum Commissioner, Department of Finance, Government of Tripura, P.O.:- Kunjaban, P.S.:-New Capital Complex, District:-West Tripura.

6. The Union of India, Represented by its Secretary to the Ministry of Human Resource and Development, Government of India, Shastri Bhawan, New Delhi:-110001.

.....Respondent(s)

For Appellant(s) : Mr. Arijit Bhaumik, Advocate,
Mr. A.T. Pal, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharya, G.A.,
Mr. Soumyadeep Saha, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH

Date of hearing and judgment : 19th January, 2023.

JUDGMENT & ORDER (ORAL)

Heard Mr. Arijit Bhaumik, learned counsel appearing for the appellants. Also heard Mr. Debalay Bhattacharya, learned Government Advocate appearing for the respondents-State.

2. This writ appeal is directed against the judgment and order dated 22.09.2020 passed by the learned Single Judge in WP(C) No.617 of 2017 whereby the learned Single Judge did not find any reason for

regularization of the petitioners and consequently, dismissed the writ petition.

3. The case of the appellants, in short, is that all the appellant-petitioners were appointed under the School Education Department, Government of Tripura and not under any scheme of the Central Government. The appointments of the petitioners were duly intimated to the respondent No.3, Director of School Education, and the petitioners started serving as Madrasa teachers under a regular establishment of Madrassas prior to application of Scheme for Providing Quality Education in Madrasa (SPQEM, for short), but the petitioner were deprived of getting regular pay scale even after completion of 5 years of service, rather they are getting pay on fixed pay basis @ Rs.2,200/- as per the appointment letter whereas the minimum salary under the SPQEM is Rs.6,000/-. The petitioners having no other alternative approached this Court by filing second round of litigation being WP(C) No.617 of 2017 which was dismissed by the learned Single Judge vide judgment and order dated 22.09.2020 observing that since no permanent post has been created under the scheme, the petitioners cannot claim regularization therein either to the Central Government or to the State Government, however, concluded that both the Central and the State Government may take a policy decision to bring Madrasasa teachers like the

petitioners serving under the SPQEM to a regular establishment of Madrassas. Being aggrieved by that order of dismissal, the petitioners have approached this Court by filing the present writ appeal. Hence, this case.

4. Appellants have prayed for the following reliefs:

- "(i) Admit this appeal;
- (ii) Issue notice upon the respondents;
- (iii) Call for the relevant records;
- (iv) After hearing the parties be pleased to allow the instant appeal against the judgment and order dated 22/09/2020 passed in W.P.(C) No.617 of 2017 and pass necessary directions upon the Respondents.

AND/OR

Pass any other order/orders as deemed fit and proper by this Honourable Court."

5. Mr. Arijit Bhaumik, learned counsel appearing for the appellants, contends that as per communication dated 29.10.2008 issued by the Ministry of Human Resource Development, Government of India, the erstwhile scheme named "Area Intensive and Madrassa Modernization Programme (AIMMP) was revised as the SPQEM scheme but the learned Single Judge failed to appreciate that SPQEM was a separate scheme in itself and the appellants were existing Madrassa teachers having been appointed much prior to SPQEM scheme being introduced. He also contends that the State Level Madrassa Advisory Committee in its meeting dated

31.12.2009 vide clause No.4 resolved that the constitution of Managing Committee, appointment of teacher, termination of teachers, release of monthly salary etc. shall strictly be regulated as per "The Tripura Special Institution (madrassa) Recognition and Grant-in-Aid Rules 1996. Referring to clause-8 of the said minutes of the meeting, he further contends that the committee also resolved to request the State Government to immediately regularize the 127 nos. of existing Modernized Madrassa Teachers and their service may be brought under Grant-in-Aid Scheme and regular scale of pay be provided to them as per their qualification on completion of their five years of service, but this decision was not complied with at that point of time. Learned counsel also contends that the appellants earlier approached this Court in 2015 by filing a series of writ petitions which were disposed of on 11.01.2016 directing the State Government to reconsider the recommendation made by the State Level Madrassa Advisory Committee afresh with regard to regularization of the petitioners by protecting their services and to place the matter before the Council of Ministers for their appropriate consideration. Thereafter, the matter was placed before the Council of Ministers who turned down the request but took a decision that these Madrassa teachers would be paid salary at par with the State Government teachers at elementary level. After this decision their salary was enhanced to the level of the State Government teachers working in

elementary establishment but the subsequent revisions of pay and annual increments were not extended to the appellant-petitioners. Accordingly, he prays for allowing the instant appeal assailing the judgment and order dated 22.09.2020.

6. On the other hand, Mr. Debalay Bhattacharya, learned G.A. appearing for the respondents-State, vehemently objected the submission of the learned counsel for the appellants contending that the appellant-petitioners were appointed under the AIMMP scheme which was revised as SPQEM scheme in the year 2008. Though the State Level Madrassa Advisory Committee sent a proposal for regularization of the petitioners but the State Government did not agree to that, more so, the posts under the scheme are not permanent and as such, the petitioners cannot be regularized in the scheme and the learned Single Judge rightly arrived at the conclusion and committed no error while dismissing the writ petition. Hence, he prays for dismissal of the writ appeal.

7. Having heard the submissions of the rival parties, we are of the considered view that the petitioners were appointed under the AIMMP scheme which at that time was entirely a CCS scheme supported by the Central Government and the posts are totally temporary post created for the purpose of the scheme. The petitioners fully aware of the conditions of the

scheme had accepted their engagement and now, they cannot turn around and seek regularization of their services. According to the conditions of the scheme, the State Government has no scope to regularize the services of the appellant-petitioners and as such, they had regretted the claim of the petitioners for their regularization.

8. Accordingly, the writ appeal being devoid of merit stands dismissed. The impugned judgment and order dated 22.09.2020 passed by the learned Single Judge in WP(C) No.617 of 2017 is confirmed.

Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

CHIEF JUSTICE (ACTING)

Pulak

