

04-09-2019
Court No.1
Sh/11.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

W.P.A. 401 OF 2019

**Md. Julfikar Ali Miah & Ors.. . . Petitioners.
Vs.
State of West Bengal & Ors. . . Respondents.**

Mr. Ekramul Bari,
Syed Mansur Ali.

. . . For the Petitioners.

Mr. Debabrata Dhar,
Mr. Hiram Barman,
Ms. Bedashruti Bose.

. . . For the State Respondent.

The petitioners have filed the instant writ petition assailing the impugned order dated 15th February, 2019, passed by the Director of Mass Education Extension & Ex-officio Addl. Secretary, Department of Mass Education Extension & Library Services, Govt. of West Bengal.

Mr. Bari, learned counsel appearing for the petitioners submits that earlier the petitioners along with nine others moved a writ petition being WP No. 6569 (W) of 2014 before the Principal Bench, which was disposed of on 4th September, 2018 by quashing the impugned order, thereby directing the respondent authorities to take a decision in accordance with law after giving an opportunity of hearing to the petitioners or their authorized representatives.

Accordingly, opportunity of hearing was given and by the impugned order dated 15th February, 2019 some of the petitioners in the earlier writ petition were given appointment barring the present writ petitioner.

The relevant portion of the order dated 15th February, 2019 is quoted here-in-below for convenience;

- A) That the writ petitioner no.1 (Partha Indra), No.3 Hamidul Islam), No.4 (Soma Ghosh), No.7 (Bablu Sarkar), and No.9 Upendra Chandra Roy) were found not eligible on the ground that they did not have requisite training at the time of submitting the proposal for sponsorship.
- B) That the writ petitioners no. 2 (Zulfikar Ali Molla), No.5 (Asraful Haque Bepari), No.6 (Pinaki Chandra), No.8 (Goutam Kr. Roy) and No.10 (Prajwaita Palit) were found not eligible on the ground that they are not organizing staffs of the issued School and Training Centre on the ground that they did not join the said School cum Training centre in question before one year prior to the date of submission of proposal for sponsorship.

That the date of joining of the petitioner no.2 is 15-01-2007, the date of joining of the petitioner no.5 is 27-02-2004, the date of joining of the petitioner no.6 is 17-01-2007, the date of joining of the petitioner no.8 is 05-06-2006, the date of joining of the petitioner no.10 is 15-01-2007.

Therefore, it is clear that they have not joined the said School cum training centre, before one year prior to the date of application for sponsorship i.e, on 04-09-2004. Therefore, they cannot be considered as organizing staff members of the said School cum training Centre.

Thus I disallow the prayer of the writ petitioner nos.2,5,6,8, and 10 of the W.P. No. 6569 (W) of 2014."

It is further contended that in respect of this Category B under which the petitioner's name are appearing those were not given appointment by the Director of Mass Education Extension on the ground that their appointment was given after the approval of the sponsorship of the said School.

Mr. Bari, learned counsel appearing for the petitioners submits that it reflects from the respondents'

own record that petitioner no.1 herein as petitioner no.2 in the earlier writ petition, Md. Julfikar Ali Miah, joined

on 15-01-2007, petitioner no.2 herein, as petitioner no.5 in the earlier writ petition, Ashraful Haque Bepari, joined on 27-02-2004, petitioner no.3 herein, as petitioner no.6 in the earlier writ petition, Pinaki Chandra joined on 17-01-2007, petitioner no.4 herein as petitioner no.8 in the earlier writ petition, Goutam Kumar Roy joined on 05-06-2006 and petitioner no.5 herein as petitioner no.10 in the earlier writ petition, Prajwalita Palit joined on 15-01-2007.

It is also contended that it is admitted fact that the recommendation for sponsorship was made by DDMEE, West Bengal on 15-01-2009 upon inspection. Accordingly, sponsorship was granted in favour of the said School by the competent authority on and from 1st October, 2009 on the basis of the letter dated 15th October, 2009.

Therefore, Mr. Bari submits that it is evident that the petitioners have been working to the said School prior to the sponsorship was given by the authority on 1st October, 2009. Unfortunately, that has not been considered at the time of rejecting the petitioners' prayer by the impugned order.

Therefore, Mr. Bari further submits that Court should quash the impugned order dated 15th February, 2019, thereby directing the respondent authorities to accord approval to the appointment of the petitioners.

Per contra, Mr. Dhar, learned counsel appearing for the State submits that since the admitted fact has been overlooked by the authorities, therefore, Court

may direct the authority to re-consider the entire issue and thereafter pass a fresh order.

Considering the submissions advanced by the learned counsel appearing for the parties and after perusing the record, in my considered view, it is evident from the impugned order dated 15th February, 2019, that the petitioners were given appointment as quoted above on different dates, much prior to the sponsorship was given. It is also evident from the record that sponsorship was given only with effect from 1st October, 2009, and the petitioners have been working to the said School sometime in 2004, 2006, and 2007, as per their respective date of appointment. Unfortunately, that issue has not been considered at all by the Director of Mass Education Extension Ex-officio Addl. Secretary at the time of rejecting the petitioners' prayer.

Considering the above submission as advanced by the parties and perusing the records, in my considered view, the impugned order dated 15th February, 2019 cannot be sustained in the eye of law as well as to the facts and circumstances of the case.

The impugned order dated 15th February, 2019 is hereby quashed and set aside. I direct the Director of Mass Education Extension, West Bengal being the respondent no.2 herein to revisit the entire issue and pass a reasoned order within eight weeks from the

date of communication of this order after giving an opportunity of hearing to the petitioners or their authorized representatives and communicate the same to the petitioner within one week thereafter.

Needless to mention that the petitioners are at liberty to produce all relevant records pertaining to this issue before the respondent no.2, who in turn shall consider such records to be produced by the petitioners before passing the reasoned order.

With these directions the instant writ petition being WPA 401 of 2019 is disposed of without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be made available to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.

(SAMAPTI CHATTERJEE,J)