

15.12.2020
SL No.2
Court No.12
(gc)

**FMA 992 of 2019
With
CAN 1 of 2019
(Old No: CAN 8577 of 2019)**

**The West Bengal Madrasah Service Commission & Anr.
Vs.
Akmol Hossain & Ors.**

(Via Video Conference)

Mr. Posenjit Mukherjee,
Ms. Madhurima Sarkar
...for the Appellants.

The matter is treated as on the day's list and disposed of by this common order.

The appellant No.1 is the West Bengal Madrasah Service Commission. The learned Counsel for the appellants submits that the Commission is aggrieved by the direction passed by the learned Single Judge to the effect that if the writ petitioners/respondents approach the authorities the names of the candidates who would not have B.Ed. qualification but have been given appointment should be supplied to the petitioners.

We have perused the order under appeal. We feel that the necessity for giving such a direction was in view of the contention raised by the writ petitioners that the B.Ed. may not be a compulsory or essential qualification but a desirable qualification which would be apparent from the appointments made by the Madrasah Service Commission in respect of candidates similarly placed as that of the writ

petitioners but not possessing B.Ed. qualification. Moreover, we feel that in the event the writ petition succeeds, the candidates who have been appointed or proposed to be appointed may be adversely affected and their rights would be jeopardized. It is elementary that in a proceeding where necessary parties are not impleaded must fail. It may also result in complications as such authorities who were not impleaded may raise an issue that their rights have not been decided in the writ petition.

On such consideration, we feel that the learned Single Judge was correct in giving liberty to the petitioners approaching the authorities for supply of names of the candidates who do not have B.Ed. qualifications but have been given appointment. We are really surprised that the Commission has preferred an appeal against such order as we expect the Commission to function with transparency and not to act arbitrarily.

Accordingly, the appeal being FMA 992 of 2019 along with the application being CAN 1 of 2019 (Old No: CAN 8577 of 2019) are disposed of.

All parties are to act on a website copy of this order on the usual undertaking.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)