

07.12.2020
Item No.32
Ct. No.12
CHC

M.A.T.1890 of 2019
With
C.A.N.1 of 2019 (Old No.CAN 12445 of 2019)
C.A.N.2 of 2020 (Old No.CAN 621 of 2020)
The Director of Madrasah Education, Government
of West Bengal
Vs.
Azad Mondal & ors.

Mr. Subhrangsu Panda
...for the State appellant

Mr. Biswaroop Bhattacharyya,
Mr. Golam Mohiuddin,
Ms. Rashmi Ghosh
...for the writ petitioner

Re: CAN 2 of 2020 (Old No. CAN 621 of 2020)

There is a delay of 344 days in preferring the appeal.

We have perused the petition for condonation of delay. We are satisfied with the explanations offered for not being able to file the memorandum of appeal within a period of limitation.

On such consideration, the delay of 344 days in filing the memorandum of appeal is condoned.

CAN 2 of 2020 (Old No. CAN 621 of 2020) is allowed.

Re: MAT 1890 of 2019
With
C.A.N.1 of 2019 (Old No. CAN12445 of 2019)

This appeal is arising out of an order dated 4th December, 2018. The appellant preferred batch of appeal against similar order dated 28th May, 2019 which were disposed of by us by common order dated 27th January, 2020.

We dispose of this appeal and the applications on the same reasoning as contained in the order dated 27th January, 2020. However, for the sake of clarity we indicate below the directions that is also required to be followed in this case:-

To put an end to the controversy we direct the Secretary, Minority Affairs and Madrasah Education Department to ascertain whether the writ petitioners were working and possessing the required qualifications in terms of the notification dated 3rd March, 2016 and whether their appointments were made in terms of the notification dated 3rd March, 2016.

In the event the writ petitioners fulfilled the required criteria then we feel that the writ petitioner is entitled to interim measures in terms of the order dated 28th May, 2019. We direct the authority concerned to decide this issue within a period of six weeks from date after giving an opportunity of hearing to one of the representatives of the writ petitioners as also the concerned Madrasah and dispose of such representation by a reasoned order which shall be

communicated to the writ petitioner within a week thereafter.

In view of the aforesaid direction there is no immediate need for the respondent authorities to release the salaries including the arrears as it would depend upon the factual consideration of the matter by the Secretary Minority Affairs and Madrasah Education Department in terms of our order.

It is needless to mention that in the event it is found that the writ petitioner is entitled to such salaries including arrears pursuant to the examination of the claims the writ petitioner in terms of the notification dated 3rd March, 2016, the respondent authorities shall immediately release the salaries including the arrears payable as also their current salary and pass an appropriate direction to that effect.

The District Inspector of Schools shall furnish all details in relation to the Madrasah in which the writ petitioner is presently working as teacher in order to enable the Secretary, Minority Affairs and Madrasah Education Department to decide the matter finally within four weeks from the date of communication of this order by either of the parties.

The appeal and the application (C.A.N.12445 of 2019) and CAN 2 of 2020 (Old No. CAN621 of 2020) are disposed of.

In view of this order nothing remains in the connected writ petition to be decided. By consent of the parties the writ petition being W.P.22510 (W) of 2018 is treated as on day's list and disposed of.

The appellant shall pay Rs.3000/- to the State Legal Services Authorities within one week from the date. If the said cost is not deposited in the aforesaid time the order passed by the learned Single Judge shall revive and the appeal shall stand automatically dismissed without any further reference to this Court.

The computer section as well as the concerned department shall take note of the order passed by us with regard to disposal of the appeal, applications and the writ petition.

Urgent Photostat certified copy of this order, if applied for be given to the parties on priority basis.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)