

09.12.2020.
Item no. 28.
Court No.13
ap

**W.P.A. No. 8733 of 2020
(Through Video Conference)
Md. Waris Hussain & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Golam Mastafa,
Mr. Samirul Sarkar.

...For the petitioners.

Mr. Supriyo Chattopadhyay,
Mr. Sabyasachi Mondal.

...For the State.

The writ petitioners claimed that they were approved for appointment by the District Magistrate, Uttar Dinajpur vide communication dated February 6, 2018. The said approval granted in terms of a Circular of the Government of West Bengal Minority Affairs and Madrasah Education Department dated 20th September, 2017 issued by the Joint Secretary, Government of West Bengal.

The said Circular dated 20th September, 2017 has been declared null and void as a consequence whereof, the approval granted to the petitioners was invalid.

The petitioners would argue that pursuant to the direction of this Court passed in W.P. No. 21810 (W) of 2018, a Secretary to the Government of West Bengal Minority Affairs & Madrasah Education Department on 22nd April, 2019, regularized the appointment of the three petitioners, as Siksha Samprasarakhs of

Ramnagar Nodhapara Ramjania Madrasah Shiksha Kendra (MSK) on humanitarian consideration.

However, Counsel for the State refers to the decision dated 12th March, 2020 taken by the Additional Secretary, Minority Affairs and Madrasah Education Department, Government of West Bengal passed pursuant to the directions of this Court in W.P. No. 11180 (W) of 2019 that in the absence of any order from the Finance Department, Government of West Bengal, it would be inappropriate for the Minority Affairs Department to unilaterally approved Samprasarakhs in MSKs.

This Court is of the view that the order dated 22nd April, 2019 may be erroneous as appointments in aided posts cannot be made de hors rules and on humanitarian consideration. Such orders create bad precedents and have serious financial implications on the State.

It is submitted by the Counsel for the State that the Finance Department is yet to take any decision on the matter.

The petitioners may re-agitate their claims as and when a suitable decision is taken by the Finance Department as mentioned in the order dated March 12, 2020 (supra).

With the above observations, the instant writ application shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertakings.

(*Rajasekhar Mantha, J.*)