

09-12-2020
ct no. 13
Sl.29
pk

WPA 8759 of 2020

Mabud Saikh and other

-Versus-

State of West Bengal & Ors.

Mrs. Kalpita Paul

....for the petitioners

Mr. Chaitali Bhattacharya

...for the respondents

The writ petitioners challenge an order dated 11th December, 2019, rejecting their claim for regularisation as Assistant Teachers in Ampara Junior High Madrasah. The order was passed by the Director of Madrasah Education pursuant to directions of this Court in W. P. 15231 (W) of 2018.

The Director found the two appointment letters dated February 18, 2009 and March 26, 2009 filed by the petitioners were issued by the Madrasah before the petitioners obtained their B A qualification. The examination was conducted in April, 2009 and results published on 6th July, 2009.

Another letter of appointment came to be issued after the petitioners qualified in the B A examination.

The Director noted that the petitioners' initial appointment was illegal as they did not possess the educational qualification when it was issued.

This Court finds that Madrasah came to be recognised in the year 2011 and admittedly the petitioners had qualified in the B A examination by July, 2009. They have been continuously serving in the Madrasah till date.

They may have been some initial irregularity in their appointments. The petitioners have however secured qualifications within four months and thereafter continuing to serve the Madrasah for 11 years now.

Ms. Chaitali Bhattacharya, learned advocate appearing on behalf of the state respondents would argue that the petitioners manufactured the second letter of appointment after recognition was granted by the State.

Although Ms. Chaitali Bhattacharya, learned advocate appearing for the State wanted to file affidavit in opposition, this Court is of the view all relevant and necessary facts are available inter alia in the final decision of the Director.

This Court is of the view that there may have been some irregularity in the initial appointment of the petitioners. The fact that

they have secured the qualifying degree in July, 2009 two years before the recognition of the Madrasah, is sufficient to call for equitable consideration of the case of the petitioners. There is no gross illegality found in the appointment letters issued after the petitioners qualifying in the B A Part II examination in July 2009.

There is also no finding of any fraud on the part of the petitioners or the Madrasah by the Director of Madrasah Education.

For the reasons stated above, the Director of Madrasah Education and the D. I. of Schools shall regularise the appointment of the petitioner with effect from the date of recognition of Madrasah and pay them the applicable scale including arrears as expeditiously as possible preferably within a period of four months from the date of communication of a copy of this order.

The impugned order dated 11th December, 2019 is hereby quashed and set aside.

Accordingly, the instant writ petition is disposed of.

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

(Rajasekhar Mantha, J.)

