

Item No. 28

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

18.9.2020
Ct-13

W.P.A. 6578 of 2020
Uday Brahaman & Ors.

v.

The G.T.A. & Ors.

with

IA No. CAN/1/2020
(Old No. 5369/2020)

Mr. Biswaroop Bhattacharya
Mr. Pritam Choudhury
... for the petitioners.

Mr. Rajdeep Majumdar
Mr. Moyukh Mukherjee
... for the respondents.

Petitioners undertake to affirm and stamp the petition/application as per Rules within 48 hours of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference. Court fees shall be filed in respect of four petitioners.

The petitioners are the Teacher-in-Charge of the respective schools under the Gorkhaland

Territorial Administration. The District Inspector of Schools(S.E.),GTA Darjeeling vide an Office Note dated 26th July, 2018 mentions that out of 129 number of High and Higher Secondary schools, 87 of such schools have been running under the Administrator/Teacher-in-Charge since 1998. The Note records that since long the appointment of Headmaster is pending. The School Service Commission Recruitment Rules is defunct in the Hill area of Darjeeling and the Gorkhaland Territorial Administration is the supreme authority in the matter. It records that all the Teacher-in-Charge possessed the requisite qualification for Headmaster and are serving satisfactorily for a considerable period of time.

The District Inspector of Schools was of the opinion that the Gorkhaland Territorial Administration authority may take an appropriate step so that the Teacher-in-Charge can be favoured with appointment of Headmaster as early as practicable.

The petitioners submit that they are serving in the schools for a considerable period of time and they possess the requisite qualification for being appointed as Headmaster/Headmistress of the schools.

The petitioners pray for necessary direction upon the concerned authority for appointing them as Headmaster/Headmistress and for necessary approval of their appointment.

The petitioners rely upon an unreported order dated 6th December, 2019 passed by a Co-ordinate Bench of this Court in WPA 917 of 2019 (Mahendra Chettri & Ors. vs. State of West Bengal & Ors.), wherein on similar facts the Court directed the Principal Secretary, Department of Education under the Gorkhaland Territorial Administration to take a decision in the matter and pass a reasoned order within the time frame as fixed by the Court.

The petitioners pray for similar orders to be passed in their case.

The petitioners have also placed the order of approval of appointment in respect of the

petitioners in the aforesaid writ petition being WPA 917 of 2019 in support of their contention that the respondents have complied the direction passed by the Court and has approved the appointments of the petitioners therein as Headmaster/Headmistress of the respective schools.

The learned advocate appearing on behalf of the respondents submits that the respondents have already acted in accordance with the direction passed by the Court in WPA 917 of 2019 and in the event direction is passed by the Court in the instant matter the respondents will take necessary steps.

In view of the submissions made on behalf of the parties the instant writ petition is disposed of by directing the Principal, Department of Education, Gorkhaland Territorial Administration to take a decision with regard to the Note forwarded by the District Inspector of Schools(SE), GTA Darjeeling vide office Memo No. 1015/SE dated 26th July, 2018 and consider the case of the petitioners for being

appointed as Headmaster/Headmistress of the respective schools. The said respondents shall pass a reasoned order in the matter within a period of four months from the date of communication of a copy of the order and shall communicate the same to the petitioners within a fortnight thereafter.

In the event the approval is granted by the Principal Secretary, the concerned District Inspector of Schools, GTA Darjeeling shall take necessary consequential steps in the matter.

The writ petition being W.P.A/6578/2020 and IA No. CAN/1/2020(Old No. 5369/2020) stand disposed of.

Affidavit-of-service filed in Court today be kept on record.

Urgent xerox certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

Sh

(**Amrita Sinha, J.**)