

S/L 23
09.02.2021
Court No.26
SD

**WPA 78 of 2021
(Via Video Conference)**

Mityl Chakravorty & Ors.
Vs.
State of West Bengal & Ors.

*Mr. Partha Sarathi Bhattacharyya
Mr. Sunil Kr. Roy*

...for the Petitioners.

*Mr. Susanta Pal
Ms. Ananya Neogi*

...for the State.

Ms. Mousumi Bhowal

...for the Respondent Nos.5 & 6.

This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by the appointment of the respondent no.6 as the Teacher-in-Charge in spite of the fact that the petitioner no.1 is the senior most teacher in the school.

Counsel appearing on behalf of the State respondent has submitted an enquiry report in Court today. The relevant portion of the same is delineated hereinbelow:-

“During the time of enquiry the following observations have come to our notice:

In the absence of the head master it is most essential to appoint one TIC for the smooth functioning of the said institution. Hence the president of the Managing Committee called a meeting on 12/12/2020. During that meeting Mr. Pradip Kumar Dey, AT was selected as the TIC of

that school by getting the support of major members who were present in the said meeting.

But the Managing Committee did not invite any application from the intending senior teachers to take part as the candidate for the post of TIC. For instance as the order of the Honorable High Court, Calcutta in connection with WP-1763(W) of 2019 vide order date 04/02/2019 may be noted. Not only that, the MC had not sought for No Objection declaration from the willing senior teachers. One Assistant Teacher namely Utpal Mondal expressed his willingness before the above noted enquiry team for taking part in the selection procedure of TIC and he alleged that he was not intimated by the MC regarding the selection of TIC. (Copy enclosed herewith)”

The above report is self-evident and clearly shows that the proper procedure was not followed in appointing the Teacher-in-Charge. It is to be noted that in normal circumstances the senior most teacher is always appointed as Teacher-in-Charge. Of course, in exceptional circumstances, the senior most teacher may not be appointed but in those cases there must be specific reasons and grounds for not appointing the senior most teacher as the Teacher-in-Charge.

Upon perusal of the documents in the writ petition, it is clear that the correct procedure was not followed and therefore, the action of the school authorities (including the resolution passed on December 12, 2020 by the Managing Committee) is quashed and set aside and direction is given

upon the school authorities to appoint the Teacher-in-Charge in accordance with law after giving proper notice to all the teachers.

With these observations, this writ petition stands disposed of.

Since, no affidavit-in-opposition has been called for the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)