

09.02.2021

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W.P.A. 918 of 2021

(Through Video Conference)

Amit Patra & ors.

Vs.

The State of West Bengal & ors.

Mr. Sankar Prasad Dalapati

Mr. Satyajit Mahata

.... For the petitioners

Mr. B. P. Vaisya

Mr. Ranjan Saha

... For the State

Mr. Sarajit Sen

Mr. Tapas Singha Roy

... For the respondent no.5

Mr. Pradip Kr. Tarafder

Mr. Sambuddha Dutta

... for the respondent no.4

Ms. Koyeli Bhattacharya

... for the W.B.B.S.E.

Mr. Soumyen Datta

Mr. Sambhu Nath Sardar

... for the respondent no.6

1. This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by an order of the President, West Bengal Board of Secondary Education dated December 4, 2020 pursuant to an order passed by Division Bench of this Hon'ble Court dated March 2, 2020.

2. Upon perusal of the impugned order, it appears that the order deals with eight of the original petitioners in the earlier writ petition and this does not refer to two of

the petitioners therein. These petitioners are petitioner nos.1 and 2 in the present writ petition.

3. It is further to be noted that the seven petitioners have produced an authorisation letter before this Court after the Court had directed them to do so on an earlier occasion.

4. The relevant portion of the order passed by the West Bengal Board of Secondary Education is delineated below :

“FINDINGS : After going through all relevant papers and documents and taking into consideration the submissions and counter submissions that have been put forward by the teaching and non-teaching employees of the school, the school management and others, it is noted that the disputed election of Teachers’ Representative and Non Teachers’ Representative were held as per schedule after exclusion of names mentioned in the D.I’s memo dated 26.09.2018. Now the focal point of discord is the nature of appointment of the said 9 teaching and 1 non-teaching staff of the school—whether they are temporary or permanent employees of the institution. It is noted that in CAN No.155 of 2019, applicant no.1 to 6, i.e. 1)Soma Nath, 2) Namra Bose, 3) Supriyo Nandi, 4) Suparna Das, 5) Sreeparna Bhattacharya and 6) Mousumi Das (Dey) have been mentioned as teachers of preparatory classes for V (Standard III and IV). Applicant no.7, Pubali Basu has been mentioned as a part-time teacher and applicant no.8, Rahul Mondal has been mentioned as part-time office assistant of the school. Perusing the condition

laid down in the appointment letter, it is crystal clear that the said teaching and non-teaching employees were not permanent employees of the institution at that material point of time when the disputed Teachers' Representative and Non Teachers' Representative election was held.

Hence, I, President, WBBSE, is of the view that the teaching and non-teaching staff mentioned in the D.I's memo dated 26.09.2018, have no voting rights as they are not permanent employees and therefore, declare the said Teachers' Representative and Non Teachers' Representative Election as valid one."

5. The order above clearly misses out specifically dealing with the petitioner nos.1 and 2 and is a non-reasoned order in relation to the two petitioners. One is not able to comprehend as to why the order specifically deals only with eight of the teachers and non-teaching staff. It chooses not to specifically deal with these two petitioners. After dealing specifically with eight of the teachers, a generic line has been written stating that upon perusal of the conditions laid down in the appointment letter, it is crystal clear that the said teaching and non-teaching staff were not permanent staff of the institution at the material point of time.

6. In my view, such statement alone is non-speaking and does not qualify as a reasoned order.

7. In light of the above reasons, I quash and set aside the order impugned and direct the West Bengal Board of

Secondary Education to grant an opportunity of hearing to all the petitioners as well as to all the interested respondents and pass a reasoned order within a period of four weeks from date. The reasoned order is to be communicated to all the interested parties within a period of one week thereafter.

8. With the above direction, this writ petition is disposed of.

9. All parties are to act on website copy of this order.

10. Authorisation letter filed be kept with the record.

(Shekhar B. Saraf, J.)