

27.04.2021
SL No.10
Court No.17
(gc)

MAT 286 of 2021
With
CAN 1 of 2021
With
CAN 2 of 2021

The Director of Madrasah Education
Vs.
Mabud Saikh & Ors.

(Via Video Conference)

Mr. Subhrangsu Panda,
...for the Appellant.
Mr. Sobhan Majumder,
...for the Respondents.

Re: CAN 2 of 2021

There is a delay of 52 days in presenting the memorandum of appeal.

We have perused the application for condonation of delay. We are satisfied with the reasons furnished by the appellant for not being able to present the appeal within the period of limitation. This application is also not opposed by the writ petitioner/private respondent. In thereof, we allow this application for condonation of delay. Delay of 52 days in presenting the memorandum of appeal is hereby condoned.

The application for condonation of delay, being CAN 2 of 2021, stands disposed of.

Re: MAT 286 of 2021
With
CAN 1 of 2021

By consent of the parties, the appeal and application are taken up together and disposed of by this common order.

The appeal is arising out of an order dated 9th December, 2020 whereby the learned Single Judge in a writ petition filed by the private respondent directed the Director of Madrasah Education and the D.I. of Schools to regularize the appointment of the writ petitioners 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 appeal is at the instance of the Director of Madrasah Education.

Mr. Subhrangsu Panda, learned Counsel appearing on behalf of the appellant has submitted that the initial appointment of the private respondents was irregular on the date of their letter of appointments since they did not possess requisite qualification and, accordingly, on the basis of such letter of appointment, the private respondents are not entitled to reliefs as claimed in the writ petition. It appears from record that two appointment letters dated 18th February, 2009 and 26th March, 2009 were issued by the Madrasah before the petitioners obtained their BA qualification. The examination was conducted in April, 2009 and the result published on 6th July, 2009. However, both the private respondents acquired their BA qualification

within a period of two months by securing requisite qualification. What is important is this that at the relevant time, the Madrasah was not recognised. It was only in 2011 when the Madrasah received the recognition from the appropriate authority. The crucial point for consideration is whether on the date of recognition the present private respondents had the requisite qualification or not. It is never disputed that when the district level inspection had taken place before recognition of the said Madrasah, the Inspecting Team did not find irregularity in the appointment of writ petitioners as teachers of the Madrasah concerned.

On such consideration, we feel that the decision of the learned Single Judge that in absence of any fraud being committed by the writ petitioners or Madrasah upon the Director of Madrasah Education or to the District Level Inspection Team (DLIT), the direction passed by the learned Single Judge as we mentioned above was justified.

For the reasons recorded above, the appeal and the application fail.

However, there shall be no order as to costs.

In view of the pendency of the appeal, the time to comply with the order passed by the learned Single Judge is extended by two months from date.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)