

Ct. 05
Item No.11
28.09.2021
(suvendu)

WPA 7574 OF 2021

(VIA VIDEO CONFERENCE)

Mehedi Hasan Biswas
Vs.
The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya
Ms. Pampa Dey (Dhabal)
Mr. Saugata Banerjee
.....for the petitioner

Mr. Tapan Kumar Mukherjee
Ms. Saheli Mukherjee
.....for the State

Affidavit of service filed in Court today is taken on record.

The writ petitioner has claimed to have been duly appointed in the post of Assistant Teacher in language group in Gholla N.H.M. High Madrasah (H.S.), District –Murshidabad, by the concerned authorities of the said Madrasah following the Rules as contained in the Notification dated 3rd March, 2016.

The grievance voiced on behalf of the writ petitioner by Mr. Kamalesh Bhattacharya, learned advocate is that in spite of appointment of the writ petitioner in the said post with effect from 18th April, 2016, till date the approval of appointment has not been accorded by the District Inspector of

Schools (SE), Murshidabad, being the respondent no.5. One letter has been written by the writ petitioner dated 15th January, 2021, at page 40 of the writ petition, addressed to the concerned respondent authorities including the Director of Madrasah Education, West Bengal, for taking necessary steps on the claim of the writ petitioner for approval of appointment.

During course of hearing, attention of this Court has been drawn to Memo dated 24th December, 2020 issued by the respondent no.5, addressed to the Director of Madrasah Education, West Bengal, intimating appointments of some teaching and non-teaching staff in the said Madrasah. It has been submitted on behalf of the writ petitioner that since issue of approval of the writ petitioner is pending before the concerned authorities, the same needs to be finally decided.

Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader appears on behalf the State respondents and submits that for appointment of the writ petitioner prior permission is pre-condition which has not been issued by the appropriate authority in favour of the said Madrasah in support of appointment of the writ petitioner and in addition thereto, it has also been submitted on behalf of the State respondents that

on maintaining staff pattern of the said Madrasah appointments were required to be made. Mr. Mukherjee opposes the prayer of the writ petitioner for approval of appointment, as sought for.

Considering the rival submissions made on behalf of the respective parties, this Court directs the Director of Madrasah School Education, West Bengal, being the respondent no. 2, to take a decision on the representation of the writ petitioner dated 15th January, 2021, at page 40 of the writ petition, in accordance with law and if necessary upon placing reliance on the relevant judgement of the Hon'ble Supreme Court, within a period of twelve weeks from the date of communication of this order after granting opportunity of hearing to the writ petitioner, concerned Madrasah authorities as well as District Inspector of Schools (S.E.), Murshidabad or his authorized representative. Decision to be taken in terms of this order, to be communicated to the writ petitioner within a period of two weeks thereafter.

However, it is made clear that if the decision goes in favour of the writ petitioner, consequential steps shall be taken for appointment of the writ petitioner in the said post by the concerned

respondent authorities and in the event of rejection of the prayer of the writ petitioner by the concerned authority, adequate reasons needs to be given in support of such rejection.

Accordingly, the writ petition stands disposed of without any order as to costs.

All parties to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

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

(Saugata Bhattacharyya, J.)