

03.05.2021
Ct. No.9
S/L No.3
KS

W.P.A. 8461 of 2021

**Collins Institute through the School Managing Committee &
Anr.**

-Vs.-

**The State of West Bengal & Ors.
(Via Video Conference)**

Mr. Sandip Kumar De

Mr. Abhijit Sarkar

.....For the Petitioners

Affidavit of service filed in Court be taken on record which reflects that the service has been effected upon the opposite parties, but, none has entered appearance on behalf of the opposite parties. However, considering the urgency in the matter and the prayer sought for in the writ application, the writ petition is taken up for consideration.

Heard learned counsel for the petitioners.

It is submitted on behalf of the writ petitioners that the writ petitioner no.1 is a Christian Minority Institution and the school is at present having 66 students in Commerce in the Higher Secondary section and is having only one teacher in one sanctioned post. So, it is impossible for one teacher to cope with at least six classes as there are three subjects viz, Business Studies, Accountancy, Cost and Tax in two classes, both XI and

XII. Thus, it hampers the quality of teaching-learning process in the Higher Secondary section. Considering the situation, the school started pursuing for another post of teacher in Commerce in the Higher Secondary Section of the school and the office of the respondent no.1 was kind enough to let the school know that by G.O. No.157-SE(HS) dated 21st October, 2010, the office of the respondent no.1 had already sanctioned two posts of assistant teachers in Commerce. The office after issuance of the said order, neither the office of the respondent no.2 nor the office of the respondent no.3 had intimated about the same as yet.

In the meantime, the school started facing another problem as the school is having only one teacher in Mathematics in the normal section of the school who takes care of the students of Class – V to Class XII while the school is having Mathematics in the Higher Secondary section too. It is pertinent to mention here that the school runs science stream in the Higher Secondary section also. The school desperately requires another teacher in Mathematics in the Higher Secondary section.

In these circumstances, the writ petitioners made a prayer to issue Post Sanctioning Memo in respect of one assistant teacher in Commerce in Higher Secondary section of the school in terms of G.O. No.157-SE(HS) dated 21st October, 2010 in respect of the other existing Post sanctioned in the said Government order so

that the school gets one post in Commerce and one post in Mathematics both in the Higher Secondary education.

Accordingly, the representations were made, but it is now pointed out that in view of the global Pandemic due to Covid – 19 set in and the life and livelihood of the entire human race, for all practical purposes, came to a grinding halt for almost a year and after the lockdown started easing with the phase-wise unlocking process, the Government felt the need to open the schools in a staggered manner. In this situation, the school felt the same problem as in case of resumption of classes physically, the school will be facing tremendous difficulty in teaching-learning process due to the problems mentioned in the said representations.

It is pointed out that the science stream of the Higher Secondary section in the School was also running and the school intimated the West Bengal Council for Higher Secondary Education regarding the conversion of post from Commerce to Mathematics seeking their permission so that the conversion of post may not face any formal objection from any corner and in view of the request made by the school and in response of the same, the West Bengal Council for Higher Secondary Education, by its letter dated 15th October, 2020, intimated the school that the Council has no objection regarding the conversion of post

from Commerce to Mathematics, provided the said conversion of post from Commerce to Mathematics by the School Education Department.

Now, since, the new academic year is again approaching and in view of the restrictions of lockdown being lifted in the phase-wise unlocking process leading to physical resumption of the school at any point of time, citing no objection of the West Bengal Council for Higher Secondary Education dated 15th October, 2020, the school once again renewed the prayer for issuance of Post Sanctioning Memo in respect of one post in the Higher Secondary Education and conversion of the other post from Commerce to Mathematics in the Higher Secondary section as per the Government Order dated 21st October, 2010 making representation dated 3rd March, 2021 in the office of the respondent no.1. But, in spite of the representations so made vide Annexure – P/2, P/3 and P/5 by the school authorities, the respondent no.1 has not taken any step with regard to granting the prayers made in the said representations by the school as yet.

Accordingly, the writ petitioners have sought for issuance of writ in the nature of mandamus directing the respondents especially the respondent no.1 to consider the representations dated 11th July, 2018, 17th January, 2020 and 3rd March, 2021 being, Annexure P/2, P/3 and P/5 to this writ petition.

Having heard learned counsel for the petitioner and bearing in mind Pupil-Teacher Ratio as mandated by Right to Education Act 2009 and the terms of GO No. 157- SE (HS) dated 21st October, 2010, relating to sanction of additional teaching post for HS School for the year 2009-2010 and for the reason that the writ petitioner/school is suffering in teaching-learning process for the lack of competent teacher, in my view, the direction upon the respondent no.1/ State of West Bengal to consider the representations mentioned above would be quite justified for ends of justice.

Accordingly, the respondent no.1 is directed to look into the representations so made by the writ petitioners within a period of six weeks from the date of the receipt of the order upon giving an opportunity to the writ petitioner of being heard and to dispose of the representation by a reasoned order with further direction to serve a copy of the reasoned order upon the petitioner within a week thereafter.

Thus, W.P.A. 8461 of 2021 is disposed of.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Shivakant Prasad, J.)

