

Ct. 05
Item No.07
11.11.2021
(suvendu)

WPA 9841 of 2021

(Via Video Conference)

**Md. Rofikuzzaman & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Kamalesh Bhattacharya
Ms. Pampa Dey (Dhabal)
.....for the Petitioners

Mr. Sami Ul Bari
..... for the State

Mr. Subhas Jana
....for the respondent no.6

Mr. Nadeem Sulaiman
....for the Madrasah Board

Affidavit of service filed on behalf of the
petitioners is taken on record.

The limited prayer sought for by the
petitioners is that representation dated 15th
January, 2021 be considered by the Director of
Madrasah Education, being the respondent no.2 in
the writ petition. The basis of such prayer is an
order of Division Bench of this Court dated 27th
January, 2020 by which the appellate court held
that the concerned department would ascertain
the eligibility of the petitioners in terms of a
notification dated 3rd March, 2016 and held that

the petitioners are entitled to interim measures in the mean time. In a challenge of the said order, the Supreme Court by its order dated 6th January, 2020 held that all nominations made by the Commission under the provisions of the Commission Act would be valid and operative and further that the Commission shall be competent to select and nominate teachers to various Madrasahs in accordance with the provisions of the Commission Act and the Rules framed thereunder. Learned counsel appearing for the petitioners also places an order of a coordinate Bench dated 28th September, 2021 which directed the Director, Madrasah Education to take decision on the representation of the concerned writ petitioner in accordance with law.

Although the prayer is resisted by learned counsel appearing for the Madrasah Board, the point raised in the objection is found to be covered in the order dated 28th September, 2021.

Learned counsel appearing for the State submits that the appointments can only be made subject to the petitioners being qualified in terms of the notification dated 3rd March, 2016.

In view of the above submissions, this Court deems it fit to direct the respondent no. 2, being the Director of Madrasah Education, to

consider the representation made by the petitioners and grant an opportunity of hearing to all the petitioners before coming to a reasoned decision. A copy of the reasoned order shall be furnished to the petitioners within a week from the date on which such decision is taken.

It is made clear that if the petitioners are found to be eligible, the concerned authorities will take steps to appoint the petitioners in the posts.

Needless to say, the respondent no. 2 shall take into account the orders passed by this Court as well as by the Supreme Court in coming to its decision.

WPA 9841 of 2021 is disposed of in terms of above.

Urgent photostant certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)