

15.01.2021  
S/L No. 31  
Court No.12  
s.biswas

**MAT 529 of 2020**  
**With**  
**CAN 1 of 2020 (Old CAN 5781/2020)**  
**CAN 2 of 2020 (Old CAN 5783/2020)**  
**CAN 3 of 2020 (Old CAN 5787/2020)**

*Md. Samser Ansari*  
Vs.  
*State of West Bengal & Ors.*  
**(Through Video Conference)**

Mr. Partha Sarathi Bhattacharya, Sr. Adv.  
Mr. Falguni Bandyopadhyay  
Mr. Raju Bhattacharya

... ... for the appellant

Mr. Tapan Kumar Mukherjee, Sr. Adv.  
Mr. Saugata Mitra  
Ms. Saheli Mukherjee

... ... for the State

The appeal is directed against the order of the learned Single Judge dated 2<sup>nd</sup> March, 2020, whereby the claim of the writ petitioner for approval of appointment in the post of Shiksha Samprasarak (language Group) in the subject of Arabic was turned down.

The present appeal was heard at length on 14<sup>th</sup> October, 2020 by a co-ordinate Bench of this Court, wherein the following observation has been made:

*“The only issue that remains is whether the writ petitioner was one of the organizing teachers at the time of inception of the relevant Madrasah. The State says that since it did not have any opportunity to use an affidavit before the Single Bench, it could not indicate a firm stand on such count as to whether the petitioner’s name was included in the District Level Inspection Team report as one of the organizing teachers.”*

Subsequently the matter came up before us and by passing an order dated 11<sup>th</sup> December, 2020 and 21<sup>st</sup> December, 2020, we directed the State respondents to file a report with regard to vacancy position of the said Madrasah Shiksha Kendra at the time of recognition of Puncha Thana Moulana Azad Madrasah Shiksha Kendra (hereinafter the “said Madrasah”).

It further appears that the said Madrasah Shiksha Kendra was recognised vide Momo dated 16<sup>th</sup> February, 2010 with effect from 1<sup>st</sup> May, 2009 as Madhyamik Siksha Kendra under the Scheme.

Pursuant to our previous direction, today a report has been filed in the form of affidavit, from where it appears that there were 7 sanctioned posts of teaching staff which are termed as Shiksha Samprasarak and 2 non-teaching staff at the time of grant of recognition in favour of the said Madhyamik Shiksha Kendra. It is further stated in the memo dated 7<sup>th</sup> January, 2021 by the Director of Madrasah Education, West Bengal, Annexure R-1 to the said affidavit that the appellant’s name featured in District Level Inspection Team (hereinafter referred to as DLIT) report dated 30<sup>th</sup> August, 2008 as Shiksha Samprasarak in Arabic having qualification of Kamil in Arabic. It was further stated in the said memo dated 7<sup>th</sup> January, 2021 that one post of Shiksha Samprasarak (Language Group) in Arabic for a candidate having qualification of MM/Kamil is still lying vacant.

Since the appellant is similarly circumstanced as that of the other teaching staff of the said Madrasah, whose name featured in the District Level Inspection Team as Shiksha Samprasarak, the appellant is also entitled to be approved in the said post of Shiksha Samprasarak (Language Group) in Arabic.

In this regard, we also take note of the observation of the Co-ordinate Bench as contained in the order dated 14<sup>th</sup> October, 2020 as set out above.

Accordingly, though we are aware that at the time of entry into the service of Shiksha Samprasarak of unrecognised Madrasah Siksha Kendra, the appellant may not have requisite age for getting approval as Shiksha Samprasarak but by this time he has become eligible for being considered for getting approval as Shiksha Samprasarak in the said Madrasah Siksha Kendra.

Considering the fact that the name of the appellant duly appeared in the relevant DLIT report, we direct the Director of Madrasah Education, being the respondent no.2 to grant approval prospectively within a period of 4 weeks from the date of communication of this order.

It is made clear that from the date of grant of such approval in terms of our present direction, the appellant being Shiksha Samprasarak is entitled to get remuneration in terms of the relevant scheme.

With the above direction the appeal and the connected application are allowed and the order of the learned Single Judge which is under appeal stands set aside.

In view of the aforesaid order, the observation made by the Additional District Magistrate (D) and Chairman Committee for Selection of Madrasah Siksha Kendra, Purulia as contained in memo dated 19.07.2010 against the appellant stands set aside.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

**(Soumen Sen, J.)**

**(Saugata Bhattacharyya, J.)**