

18th November, 2021
(D/L No.20)
(SKB)

W.P.A. 17424 of 2021
(Via Video Conference)

The Secretary,
Hasnecha Islamia Siddiqui Sr. Madrasah
Versus
State of West Bengal & Ors.

Mr. Tarapada Das
... for the petitioner.

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

Mr. Tapan Kr. Mukherjee,
Mr. Shamim ul Bari,
Ms. Saheli Mukherjee
... for the State.

The petitioner has challenged an order passed by the West Bengal Board of Madrasah Education dated 16th September, 2021 on the ground that the order was passed *ex parte* and without hearing the petitioner. By the said order, the Board directed that Drawing and Disbursal Officer shall be appointed in respect of the concerned Madrasah for smooth functioning of the said Madrasah and that a proposal for Administrator shall be sent soon thereafter. The District Inspector of Schools (SE), South 24 Parganas was also directed to take all necessary steps for joining in the matter of a certain gentleman who joined in the post of Group 'C' in the said Madrasah and for necessary action to take a fresh election under the Management of recognized

non-Government Madrasah (Aided and Unaided), Rules, 2002.

Learned counsel appearing for the Board submits that an Administrator has been appointed for the concerned Madrasah.

Upon hearing learned counsel, it appears that although the petitioner did not respond earlier notices sent by the Board, the last letter dated 10th August, 2021 from the petitioner to the Secretary, West Bengal Board of Madrasah Education, was in the nature of a prayer for adjournment of the hearing. The said letter was received by the Board but the Board none-the-less proceeded to hold a hearing and passed the impugned order.

This court is of the view that any action taken subsequent to the order must revert to the state of affairs as existed before the impugned order was passed since the decision was taken by the Board without giving a hearing to the petitioner. When the action complained of is to the ultimate prejudice to the petitioner, this must be seen as breach of the principles of natural justice, which have to be complied with whenever a State authority takes a decision which would have a bearing on a person who would consequently be affected by the said decision.

In view of the above, the impugned decision dated 16th September, 2021 is set aside. The Board being the respondent no.3 shall call the petitioner for a fresh

hearing on 29th November, 2021. Since the order is being passed on open court, it shall be deemed to have notice of the date of hearing, if the petitioner remains unattended, the Board shall have full liberty for passing an order.

W.P.A.17424 of 2021 is disposed of in terms of the above.

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

(Moushumi Bhattacharya, J.)