

13.12.2021
SL No. 5
Court No. 24
(P.M.)

WPA 20041 of 2021

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

Mr. Md. Sarwar Jahan,
Sk. Nayeemul Haque
... for the petitioner

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar
... for Madrasah Service Commission

Mr. Bhaskar Prasad Vaisya,
Mr. Ranjan Saha
... for the State

The petitioner claims to be appointed as the Headmaster of Harit Ayub High Madrasah and he is pursuing his claim since 2008.

He relies upon a memo of the District Inspector of School, Secondary Education, Hooghly whereby he was appointed as teacher-in-charge. In the remarks column particulars of vacancies of the said Madrasah was mentioned. It was mentioned that the petitioner was under qualified for Headmaster. He was permitted to enhance his qualification within five years in terms of Government Order No. 1261-MD dated 27th August, 2007 with effect from issuance of approval of appointment. The service of the petitioner is yet to be approved in the post of Headmaster.

The petitioner enhanced his qualification but as his approval was not accepted he filed a writ petition before this Court being W.P. No. 2422(W) of 2015 and by order dated 15th May, 2015 the Court refused to interfere with the order of the District Inspector of Schools refusing to grant relief to the petitioner. The petitioner went up in appeal being MAT No. 978 of 2015. By order dated 3rd August, 2015 passed in CAN 6554 of 2015 the Hon'ble Division Bench was pleased to pass an interim order staying operation of the impugned judgment and order under appeal till disposal of the appeal. The Court was pleased to pass a further interim order directing the parties to maintain status quo with regard to the functioning of the petitioner as on date till disposal of the appeal.

It has been submitted that the appeal is pending till date.

The Madrasah Service Commission published a vacancy list for appointment of Headmaster in High/H.S. Madrasah wherein the name of the Madrasah where the petitioner is functioning is appearing.

The petitioner prays for a direction upon the Madrasah Service Commission not to fill up the vacancy in the post of Headmaster in the disputed

Madrasah in view of the pendency of the aforesaid appeal.

The learned advocate representing the Madrasah Service Commission submits, upon instruction, that a revised vacancy list has been published by the Commission wherein the name of the disputed Madrasah has been deleted.

In view of the fact that the Commission has suo motu taken a decision not to proceed with filling up of the vacancy in the Madrasah in question there is no reason to interfere in this matter at this stage.

The parties will be at liberty to take steps before the Hon'ble Division Bench in the pending appeal being MAT No. 978 of 2015 (Shajahan Mondal -vs -State of West Bengal & Ors.).

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)