

37 10.12.2021
rkd Ct.15

W.P.A. 27470 of 2015
(IA NO: CAN 1/2020(Old No: CAN 2168/2020), CAN 2/2020(Old
No: CAN 2172/2020)
(Through Video Conference)

Sakia Khatun

-vs-

The State of West Bengal & Ors.

Mr. Sarwar Jahan,
Mr. Sk. Sahjahan Ali

....for the petitioner.

Mr. Jaladhi Das

....for the State.

This is a writ petition at the instance of a Group-D staff who was appointed temporarily in Contai Rahmania High Madrasah (for short “said Madrasah”) with effect from 20th February, 2002. In support of such appointment petitioner has also relied upon a certificate dated 30th March, 2013 in order to show that the petitioner was working on the post as casual worker with effect from 20th February, 2002. The grievance of the writ petitioner as ventilated though the prayer couched in the writ petition is failure on the part of the respondent authorities to accord approval in her favour. The prayer of the writ petitioner runs infra:

“a. A writ of or in the nature of Mandamus commanding the respondents their agents, servants, subordinates, employee and/or employees to accord approval to the

appointment of the petitioner as Group-D in Contai Rahmania High Madrasha (H.S.) , P.O. Darua, District-Purba Medinipur..

b. A writ of or in the nature of Mandamus Commanding the respondents to cause any disturbance in writ petitioner's services as Group-D Staff in the said Madrasha and/or from appointing any candidates from the Madrasha Service Commission in the post as to be held by the petitioners."

Mr. Jahan, learned advocate appears on behalf of the writ petitioner and submits that there was an advertisement issued by the Madrasah Authority on 4th October, 2015 for filling up two posts of Group-D staff which were lying vacant in the said Madrasah. If writ petitioner's appointment which was made on 20th February, 2002 cannot be approved then the writ petitioner is entitled to participate in the selection process pursuant to such advertisement dated 4th October, 2015 published in a Bengali Vernacular.

Having considered the submission made by the writ petitioner this Court has posed question to

Mr. Jahan whether the petitioner has made any application pursuant to such advertisement dated 4th October, 2015 for offering her candidature before the Interview Board constituted by the said Madrasah Authority. This Court does not find any satisfactory answer. In addition thereto this Court has also carefully gone through the prayer made in the writ petition which centers around the approval of the writ petitioner since she has been discharging duty on casual basis in the said Madrasah with effect from 20th February, 2002 and also an additional prayer has been made to restrain the respondent authorities from disturbing the functioning of the writ petitioner as Group-D staff of the said school.

This Court has heard the learned advocate representing the writ petitioner as well as considered the relevant documents which are made available on record. Since the writ petitioner was appointed on casual basis she does not have any enforceable legal right which can be protected by issuance of mandamus for extending the benefit of approval as sought for in the writ petition. Another question comes for consideration is the right of the writ petitioner to participate in the selection process which was initiated by advertising the post

on 4th October, 2015. It does not appear that the writ petitioner made application before the said Madrasah Authority for offering her candidature at the selection process therefore question of extending opportunity to the writ petitioner to participate in the selection process for appointment in the post of Group-D does not arise.

In the above conspectus, the writ petition stands dismissed and the connected applications being CAN 1/2020 (Old No: CAN 2168/2020) and CAN 2/2020 (Old No: CAN 2172/2020) also stand dismissed.

There shall be no order as to costs.

Interim order passed on 5th November, 2015 stands vacated.

Said Madrasah authority shall be at liberty to fill up the post of Group-D which was advertised on 4th October, 2015 in accordance with law.

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

(Saugata Bhattacharyya, J.)