

N.22Sl
151/CL

W. P.A. No.9487 of 2020
Sikha Biswas
v.
The State of West Bengal & Ors.

05.01.2021	Mr. Ekramul Bari	
Sl.-06	Ms. Tanuja Basak	... for the petitioner.
Ct.25		
(S.R.)	Mr. Supriyo Chattopadhyay	
via video	Mr. Ranjan Saha	... for the State.
conference		
	Mr. Sanjay Baid	
	Mr. S.P. Lahiri	... for the respondent nos.4 & 5.

The present writ petition has been preferred primarily praying for the following relief: -

“a. A Writ of or in the nature of Mandamus do issue commanding the respondents, their agents, servants, subordinates, employees and/or assignees to rescind, cancel and withdraw the selection of the private respondent to the post of Headmistress and further injunct the respondents permanently from appointing the private respondent and/or anyone else in the post of Headmistress without following due of process of law as emancipated under Notification dated 03.02.2016.”

Mr. Bari, learned advocate appearing for the petitioner submits that the petitioner is an assistant teacher of Queen’s Girls’ High (HS) School (in short, the said school) and has the appropriate qualification and eligibility to be appointed to the post of headmistress in the said school, which is a minority institution. Surprisingly, without obtaining any prior permission from the respondent no.3 and without open advertisement, the school authorities have arbitrarily appointed the private respondent no.6 as the headmistress of the said school.

Objecting to such action of the school authorities, the petitioner submitted a representation to the President of the governing body on 16th November, 2020, with a copy to the respondent no.3.

Drawing the attention of this Court to the notifications dated 23rd May, 1974, 6th June, 2012 and 3rd February, 2016, Mr. Bari submits that the post of headmistress could not have been filled up by the school authorities without open advertisement thereby denying opportunity to the other eligible candidates including the petitioner to apply for the post of headmistress. By adopting an illegal procedure, the school authorities have accommodated a favoured candidate.

Mr. Baid, learned advocate appearing for the respondent nos.4 to 6 denies and disputes the contention of the petitioner and submits that the respondent no.6 has already been appointed to the post of headmistress and all necessary documents have been forwarded to the respondent no.3 seeking approval of appointment of the respondent no.6 in the post of headmistress by a letter dated 1st December, 2020. Let a copy of the said letter, as produced, be kept on record.

Drawing the attention of this Court to the provisions of clauses 2 and 4 of the notification dated 3rd February, 2016, Mr. Baid submits that the school authorities have adopted a procedure in consonance with the said notification and there is no illegality in the

decision towards appointment of the respondent no.6 to the post of headmistress.

Mr. Chattopadhyay, learned advocate appearing for the State respondents submits that the issue may be relegated to the respondent no.3, who is yet to take a decision as regards approval of appointment of the respondent no.6 to the post of headmistress.

Upon hearing the learned advocates appearing for the respective parties and as no final decision has been taken by the respondent no.3 towards approval of appointment of the respondent no.6 to the post of headmistress, the writ petition is disposed of directing the said respondent no.3 to consider the representation of the petitioner dated 16th November, 2020 as well as the documents forwarded by the school authorities by the letter dated 1st December, 2020 and to take a final decision towards approval of appointment of the said respondent no.6 to the post of headmistress in the said school, upon granting an opportunity of hearing to the petitioner, the respondent no.6 and the school authorities and to communicate such decision to the said parties within a period of four weeks from the date of communication of this order along with a copy of the writ petition.

It is made clear that this Court has not considered the merits of the petitioner's claim and all points are kept open to be decided by the said respondent no.3.

As the writ petition has been disposed of without calling for affidavits, the allegations levelled in the same shall be deemed to have been denied by the respondents.

With the above observations and directions, the writ application is disposed of.

There shall be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Tapabrata Chakraborty, J.)