

05.01.2021
Item No.03
Daily List
Court No.25
Krishnendu

W.P.A. No. 11357 of 2020
(VIA VIDEO CONFERENCE)

In re: Smt. Rupali Mitra
- Versus-
The State of West Bengal & Ors

Mr. Partha Sarathi Bhattacharyya
Mr. Raju Bhattacharyya
For the Petitioner

Mr. Supriyo Chattopadhyay
Ms. Iti Dutta
For the State

Mr. Ekramul Bari
Mr. Kumaresh Dalal
For the Respds.4-7

The present writ petition has been preferred challenging *inter alia* a resolution dated 10th December, 2020 adopted by the Managing Committee of Balika Siksha Sadan (in short, the said school). By the said resolution, the private respondent no. 8 has been appointed as the teacher-in-charge of the said school in place and stead of Mrs. Sharmistha Chowdhury, who is due to retire on 6th January, 2021.

Mr. Bhattacharyya, learned senior advocate appearing for the petitioner submits that the said school is a DA getting school to which the provisions of the West Bengal School Service Commission Act, 1997 are not applicable. The petitioner is the senior most teacher and she is entitled to be appointed to the post of teacher-

in-charge in the absence of a headmistress in the said school.

Drawing the attention of this Court to the averments made in paragraph 12 of the writ petition, Mr. Bhattacharyya submits that the petitioner and the respondent no. 8 have similar educational qualification. However, as the petitioner has more teaching experience, the Managing Committee could not have appointed the respondent no.8, who admittedly has less teaching experience and is junior to the petitioner. Such decision taken by the Managing Committee of the said school is arbitrary and illegal.

Mr. Bari, learned advocate appearing for the school authorities denies and disputes the contention of Mr. Bhattacharyya and submits that it is the discretion of the Managing Committee to select and appoint a competent teacher as the teacher-in-charge of the school. Such competence cannot be restricted only within the domain of experience and qualification. A copy of the resolution dated 10th December, 2020, as produced, be kept on record.

Mr. Bari submits that a show-cause notice has been issued to the petitioner and she has replied to the same.

According to Mr. Bari, the decision towards appointment of the respondent no.8 as the teacher-in-charge of the said school is neither arbitrary nor unreasonable warranting interference of this Court.

Indisputably, the petitioner has more teaching experience than the respondent no. 8. In the resolution dated 10th December, 2020, no reason has been disclosed as to why a teacher having lesser teaching experience than the petitioner has been selected for appointment as the teacher-in-charge. The said resolution, in my opinion, is a cryptic one and is not sustainable in law.

On such limited ground, the resolution dated 10th December, 2020 is set aside.

The school authorities would be at liberty to convene a meeting and to take a fresh decision towards appointment of a competent person as teacher-in-charge of the said school. Such decision should be a reasoned one.

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

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.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties upon compliance of all necessary formalities.

(Tapabrata Chakraborty, J.)

