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10.02.2021
Mithun

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA/293/2021

Bikash Sharma
-versus-
State of West Bengal & Ors.

Mr.Sanjay Mazoomdar, Adv.
Ms.Sukanya Adhikary, Adv.
...for the petitioner.

Mr.Supriya Singh, Adv.
...for respondent No.2

Mr.Subir Kumar Saha, Ld.A.G.P.,
Ms.Bedashruti Bose, Adv.
...for the State .

The petitioner is a Teacher-in-Charge in a Government aided schools situated in the Hill Area of Darjeeling under the administrative, financial and executive control of Gorkhalnd Territorial Administration (hereinafter described as GTA) in accordance with the provision of Gorkhaland Territorial Administrative Act, 2011.

By a memo dated 12th June, 2017, the West Bengal Central School Service Commission excluded operation of the said memorandum on the point of selection and appointment of Headmaster of the Government aided schools situated in the Hill Area. The appointment of Headmaster in the Government aided schools under the

administrative, financial and executive control of G.T.A. would be directed to be made by the District Inspector, G.T.A., respondent No.2 herein.

The petitioner being the Teacher-in-Charge of Indira Ojha High School situated at Mangarjun, Darjeeling submitted a representation to the respondent No.4 offering his candidature as the Headmaster of the said school. The said representation has not been adhered to. So is the instant writ petition.

Learned Advocate for the petitioner submits to the tune of the case made out by the petitioner in the instant writ petition. He also refers to the relevant memo dated 12th June, 2017 and the representation submitted by the petitioner on 3rd August, 2020 which are annexed with the instant writ petition.

Mr. Majumder, learned Counsel for the petitioner further draws my attention to a judgment delivered in WPA 642 of 2020 on 19th January, 2021 directing the respondent No.2 to consider the grievance of the writ petitioner as contained in his representation and passed a reasoned order within a particular time framed.

Ms. Supriya Singh, learned Counsel for respondent Nos.2 and 3, on the other hand, submits that she has no instruction over the

instant matter and there may be other teachers who contend for appointment to the said post of Headmaster of the said school. Therefore, their legal rights should also be protected.

Having heard the learned Counsels for the parties, I like to state that except the petitioner, no other persons came forward before this Court to protect his legal right. The right of a person who approached the Court at the earliest must be protected and no such right is available in favour of the indolent who are sitting beside the fence to see the legal battle and contemplate to take action on the basis of the result of the game.

For the reasons stated above, I am not in a position to accept the submission made by the learned Advocate for the respondents.

The petitioner is the Teacher-in-Charge of the above-named school. He has made a representation before respondent No.4 for being appointed as Headmaster of the said school. His representation must be disposed of by the authority named in the memorandum dated 12th June, 2017 after giving opportunity to the petitioner to represent his case either personally or through his representative.

Therefore, the instant writ petition is disposed of directing the respondent no.2 to

consider and dispose of the representation dated 3rd August, 2020 submitted by the petitioner before respondent No.4 within three weeks from the date by a reasoned order after giving opportunity to him or his representative to present his case.

Such action shall be completed within three weeks from the date of communication of this order and the petitioner be informed about the final decision taken by respondent No.2 immediately on consideration of his representation.

The instant writ petition, is, thus, allowed on contest, however, without costs.

The parties are at liberty to act on the server copy of this order.

(Bibek Chaudhuri, J.)