

22. 02. 2022
BP
Sl. 295
Court No. 17

WPA 1202 of 2022

(Via Video Conference)

Somnath Ghosh & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Ujjal Roy
..for the petitioners.

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
..for SSC.

Mr. Rezaul Hossain
..for the State.

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

The petitioners before me all were appointed by the West Bengal Central School Service Commission and not by the West Bengal Madrasah Service Commission on 16.11.2007. The Madrasah Service Commission came into being in 2008. The petitioners did not have any option to select their place of work by way of counselling at that point of time and it was the

West Bengal Central School Service Commission which recommended them to different Madrasahs as, at that point of time, Madrasah and schools were covered by the School Service Commission Act. Thus at that point of time, in respect of the Regional Level Selection Test, some candidates were appointed in schools and some candidates were appointed in Madrasahs. Therefore, the candidates who appeared in the Regional Level Selection Test conducted by the School Service Commission appointed in schools are getting advantage of transfer through Utsoshree portal but the petitioners, who had no choice but to join the educational institutions namely Madrasahs not by their choice but by the School Service Commission, are being deprived of the benefit of transfer through Utsoshree portal.

In my view, this is clearly violation of articles 14 and 16 of the Constitution of India. Therefore, I direct the Principal Secretary of the School Education Department to consider the matter of the petitioners who want to be covered by the Utsoshree portal and not by on-line application for General Transfer, 2021 or any other such procedure of Madrasah Service Commission.

I direct the Principal Secretary of School Education Department to give an opportunity of hearing to the representative of the Madrasah Service

Commission and the petitioners and thereafter pass a reasoned order keeping in mind that the teachers of the institutions, which were given special rights to appoint their own teachers and not by the School Service Commission (like Ramkrishna Mission) have been given the right recently to get the advantage of the general transfer. The case of the petitioners are on the similar footing. The candidates who were recommended in Ramkrishna Mission now have been given an opportunity to get transferred from Ramkrishna Mission to another school by way of general transfer (not by mutual transfer). The decision, after hearing the parties, is to be given by eight weeks from date of communication of this order.

Learned advocate for the Madrasah Service Commission has raised vehement objection by stating different difficulties that will be faced by the Madrasahs and I fail to understand what difficulties the Madrasah Service Commission will face if some teachers go to some other schools. In such an event the Madrasah Service Commission will get the opportunity to give employment to some other persons who want to work in Madrasah through Madrasah Service Commission.

Learned advocate for the Madrasah Service Commission wanted to file one affidavit.

As I am passing direction for considering the matter after giving an opportunity of hearing, I do not find this is a fit case for exchange of affidavits.

With this observation and direction, this writ application is disposed of.

(Abhijit Gangopadhyay, J.)

