

WPA 839 of 2017

**Minara Bibi @ Minara Laskar
Vs.
The State of West Bengal & Ors.**

**Mr. Biswarup Biswas
Ms. Moumita Mondal**

...for the petitioner

**Mr. Mrinal Kanti Ghosh
Mr. Chandranath Sarkar**

....for the Respondent no. 10

**Ms. Chaitali Bhattacharya
Mr. Kartik Chandra Kapas**

...for the State

Mr. Sarwar Jahan

...for the respondent no. 11

Mr. Lakshminath Bhattacharya

...for the respondent no. 12

Matter relates to resumption of duty of the petitioner as Sahayika in Vidyasagar Sishu Siksha Kendra, Futigoga Gram Panchayat under Joynagar-II Block, District-South 24 Parganas. In the present writ petition petitioner has prayed for implementation of the order of the Block Development Officer, Joynagar-II Development Block dated 6th February, 2013 upon setting aside the order of the said Block Development Officer dated 22nd September, 2016.

It is submitted by Mr. Biswarup Biswas, learned advocate representing the petitioner that initially petitioner was working in the post of Sahayika in

Padmapukur Gouranga Sundar Sishu Siksha Kendra but subsequently she could not continue her job as Sahayika in view of acrimony prevailed in between the petitioner and the committee of said Sishu Sikha Kendra and such fact is corroborated from the report dated 13th February, 2012 prepared by an Officer of Women Education Extension Cell . It has further been submitted that while issuing the impugned order by the said Block Development Officer being respondent no. 5 his previous decision as contained in memo dated 6th February, 2013 was not taken into consideration therefore it has been submitted that such decision of the respondent no. 5 may not be given effect to.

Mr. Sarwar Jahan, learned advocate appears on behalf of the Pachim Banga Rajya Shishu Shiksha Mission who has submitted that the condition of service of Sahayika working in Sishu Sikha Kendra got change with effect from 1st April, 2010 and from the writ petition it is not apparent whether on such date or subsequent thereto petitioner was working as Sahayika. Pointing out such aspect it has been submitted by Mr. Jahan that the benefit of improved terms and conditions of service of Sahayika may not be extended to the petitioner if petitioner was not working as Sahayika on 1st April, 2010 and subsequent thereto.

Mr. Lakshminath Bhattacharya, learned advocate is representing teacher-in-charge of Vidyasagar Sishu

Siksha Kendra and he has submitted that said Sishu Siksha Kendra has no objection if the petitioner is permitted to join the post of Sahayika.

This Court has heard the learned advocates appearing for the parties and perused the relevant documents available on record. From the facts narrated in the writ petition it appears that initially petitioner was working in the post of Sahayika in Padmapukur Gouranga Sundar Sishu Siksha Kendra but subsequently she could not continue her job as Sahayika there in view of resistance put up by the said Sishu Sikha Kendra which is corroborated from the report of an Officer of Women Education Extension Cell dated 13th February, 2012, page 29 of the writ petition. Based on such report the Joint Block Development Officer recommended for an alternative arrangement and subsequent thereto the matter was forwarded by the Additional District Magistrate and Assistant Executive Officer of South 24 Parganas Zilla Parisad to the respondent no. 5. The respondent no. 5 in his turn vide issuing memo dated 6th February, 2013 allowed the petitioner to join the post of Sahayika in Vidyasagar Sishu Siksha Kendra.

It further appears that pursuant to such memo dated 6th February, 2013 petitioner joined the post of Sahayika on 7th March, 2013 but subsequently she could not continue her job there also which prompted the petitioner to made representation to the police authorities and

ultimately preferred a writ petition being WPA 24618 of 2015 seeking police assistance in order to facilitate her to continue her job as Sahayika in Vidyasagar Sishu Siksha Kendra. The coordinate Bench while disposing of the said writ petition directed the concerned police authorities to extend assistance if such authority is approached by the petitioner being Sahayika.

Such steps taken by the petitioner i.e. preferring representation and approaching this Court with a writ petition seeking police help go to show that petitioner could not join the post of Sahayika in Vidyasagar Sishu Siksha Kendra at the material point of time. Subsequently in connection with a direction passed by another coordinate Bench on 5th August, 2016 on a writ petition being WPA 13282 of 2016 the respondent no. 5 passed order on 22nd September, 2016.

On perusal of such impugned order dated 22nd September, 2016 it appears that the said respondent no. 5 decided against the petitioner since petitioner could not submit any engagement letter which was issued in her favour for the post of Sahayika in terms of Government Order dated 23rd April, 2010.

On analysis of the aforesaid facts it appears that the respondent no. 5 while taking decision as contained in order dated 22nd September, 2016 did not take into consideration the previous decision of the respondent no. 5 dated 6th February, 2013 based on the inspection report

dated 13th February, 2012. It appears that the respondent no. 5 on recommendation of the Additional District Magistrate and Assistant Executive Officer of South 24 Parganas Zilla Parishad decided the issue in favour of the petitioner far back of 6th February, 2013 thereby permitting the petitioner to join the post of Sahayika in Vidyasagar Sishu Siksha Kendra.

In view of such exercise made by the respondent no. 5 as it emanates from memo dated 6th February, 2013 which has not subsequently been considered by the said respondent no. 5 while passing order dated 22nd September, 2016 this Court finds it apt to set aside the subsequent decision of the respondent no. 5 dated 22nd September, 2016.

Accordingly, the order of the respondent no. 5 dated 22nd September, 2016 stands set aside and the concerned respondent authorities including the authorities of Vidyasagar Sishu Siksha Kendra are directed to allow the petitioner to join the post of Sahayika immediately but not later than fortnight from this date.

Needless to clarify that on resumption of duty petitioner shall be entitled to get her remuneration as Sahayika in accordance with law.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)