

D/L
Item No. 31
16.08.2022
KOLE

WPA 722 of 2014

Meerza Safi Kamal
-Vs.-
The State of West Bengal & Ors.

Mr. Biswaroop Biswas,
Mr. L. Haque,

...for the petitioner.

Mr. Bhaskar Prasad Vaisya, Ld. AGP,
Mr. Suman Dey,

...for the State.

Mr. Sakya Sen,
Mr. S. Gupta,

...for the respondent no. 6.

This Court has heard Counsel for the petitioner Mr. Biswas, Mr. Vaisya for the State and Mr. Sen, Counsel representing the School.

Miss Ananya Ghosh, District Project Officer, Sarbasiksha Mission, Murshidabad, is also present virtually in the Court.

It appears from the facts of the case that the issue, i.e whether the mark-sheets produced by the petitioners are to be accepted by the respondents for the purpose of selection process and calculation of marks thereof for the post of Additional Para Teachers in a school, is not relevant in the case at hand.

What is relevant are the contents of the order dated 10th September, 2013 passed by a Coordinate Bench in WP No. 15617 (W) of 2007 (Meerza Sufi Kamal-vs.-The State of West Bengal & Ors.). The submissions made by the

petitioner as clearly recorded in the said order are that the petitioner had produced the original provisional certificate of his Bachelor of Arts in Geography obtained from the Sido-Kanhu Murmu University.

It appears from the records as well as the impugned order that the petitioner obtained such provisional certificate in only in the year January 8, 2007 and final certificate he got on April 12, 2008. It is abundantly clear that as on the date of first consideration for scrutiny of the petitioner's testimonials on 12th December, 2006, he could not have lawfully possessed any provisional certificate.

There was clear suppression of material facts before the Coordinate Bench by the petitioner.

It is a different issue as to what the Coordinate Bench had held had it been informed to Court that the petitioner also did not have a provisional certificate.

Given the suppression of material facts and the misstatement thereof before the Coordinate Bench, this Court is in agreement with the findings of the District Project Officer, Murshidabad in the impugned order that a person, who suppressed the material facts and misled the Court of Law is not entitled to relief.

The petitioner was hunting with the hound and running with the hare. On one hand he prayed for sympathetic consideration, on the ground that his mark-sheets ought to have been taken into consideration and the degree certificate should not have been insisted as is the continued view followed by this Court. In the same breath he

has misled the Coordinate Bench into believing that he had produced the provisional certificate. The mark-sheets or non-reliance thereupon by the respondents was never in issue before the Co-ordinate Bench.

Hence, this Court is of the view that the writ petition be dismissed with costs assessed at Rs. 5,000/- that shall be recovered by the District Project Officer, SSM, from the petitioner *inter alia* under the provisions of the Bengal Public Demand Recovery Act, 1913.

The personal presence of Ms. Ananya Ghosh, DPO Sarbasiksha Mission, Murshidabad is dispensed with.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Rajasekhar Mantha, J.)