

S/L 95
16.6. 2022
Court. No. 19
sn

WPCRC 74 of 2022

Rowsonara Khatun
Vs.
Professor Abdur Rauf

Mr. Supriyo Chattopadhyay
Mr. Sudip Kumar Maiti ... for the Petitioner

Mr. Prasenjit Mukherjee
Ms. Madhurima Sarkar ..for the alleged contemner

Md. Galib
Mr. Anubrata Santra ..for the State

Professor Abdur Rauf, Chairman, West Bengal
Madrasah Service Commission is present before this
Court, through his learned advocate.

A compliance report has been filed.

Having perused the compliance report, it is clear
that there are two limbs to the order of this Court
dated February 13, 2019. Either the petitioner be
transferred to Hamidia High Madrasah or if the same
is not possible, in that case to a school in Birbhum.

It has been specifically averred in paragraph 4 of
the compliance report that the Commissioner had not
been intimated through proper channel about the
existing vacancy in Hamadia High Madrasah,
Birbhum. In the absence of such intimation, the
petitioner could not be adjusted in Hamadia High
Madrasah, Birbhum. The rules prescribe that the
vacancy position must be intimated to the Commission

through the Director of Madrasah Education. The petitioner has been transferred to Amaipur Miloni High Madrasah.

The second option given to the Commission to transfer the petitioner to any school in the District of Birbhum has been complied with. The vacancy position has neither been intimated to the petitioner nor do the State respondents have any information about it. As such, this Court finds that there has been some substantial compliance of the order of this Court.

A person can be guilty of contempt in case flagrant and wilful violation of the order of the Court. The contempt has to be established beyond reasonable doubt and not on the preponderance of the probability.

This Court does not find that the petitioner has been able to prove that the alleged contemner is guilty of contempt, i.e., wilful disobedience.

The other contention of the petitioner that the respondents have been intentionally suppressed the vacancy position of Hamadia High Madrasah, Birbhum, cannot be decided in the contempt application.

The remedy of the petitioner shall be before the appropriate forum, as per law. Such contention is left open to be decided in a separate writ proceeding.

Amaipur Miloni High Madrasah (H.S.) had already issued a appointment letter to the petitioner

dated June 7, 2022. A copy of the same, is taken on record.

The personal appearance of the alleged contemner is dispensed with.

The contempt proceeding is dropped.

The contempt rule stands discharged.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)