

W.P.A. 7517 of 2021

**Tuhin Molla
Vs.
State of West Bengal & Ors.**

**Mr. Kamalesh Bhattacharyya
Mr. Bidhan Biswas**

...for the petitioner

**Mr. Abhimanyu Shandilya
Mr. Subhashis Paul**

..for the respondent nos. 4 & 5

**Mr. Tapan Kumar Mukherjee
Ms. Saheli Mukherjee**

...for the State

Pursuant to the order dated 22nd June, 2022 the matter is taken up for hearing in presence of the learned advocates representing the petitioner, State of West Bengal and Chhapna High Madrasah (hereinafter referred to as “said Madrasah”) District-North 24 Parganas.

Pursuant to the direction contained in the order dated 22nd June, 2022 Assistant Inspector of Schools (SE), North 24 Parganas has affirmed one affidavit on 11th July, 2022 which is filed before this Court and the same is taken on record. This Court has perused affidavit wherein an attempt has been made on behalf of the District Inspector of Schools (SE), North 24 Parganas to

offer explanation relating to grant of approval of appointment in favour of the petitioner against one non-teaching post which fell vacant due to retirement of Hanif Mahammad vide memo dated 25th November, 2019.

It appears that subsequently it was found that the said post of non-teaching staff was filled up by a candidate named Md. Nasiruddin Molla. Question arises for consideration that since approval of appointment has been accorded by the District Inspector of Schools (SE), North 24 Parganas vide memo dated 25th November, 2019, how he is to be accommodated. It appears from relevant part of affidavit affirmed on behalf of the State-respondents that there is another post of non-teaching staff which is lying vacant due to resignation of one Md. Khabir Hossain on 12th December, 2013.

Mr. Kamallesh Bhattacharyya, learned counsel representing the petitioner has strenuously submitted that since approval of appointment has already been granted in favour of the petitioner vide memo dated 25th November, 2019 and there is availability of vacancy of non-teaching post in the said Madrasah the petitioner by this time ought to have been considered for the said vacant post.

This Court also finds from the affidavit affirmed on 11th July, 2022 that the concerned District Inspector of Schools (SE), North 24 Parganas vide memo dated 21st January, 2021 solicited instruction from the Director of Madrasah Education, West Bengal on the issue as enumerated above. In response thereto though it appears further that the said Director of Madrasah Education, West Bengal vide memo dated 9th February, 2021 asked the concerned District Inspector of Schools (SE), North 24 Parganas not to take further steps with regard to such approval but it appears to this Court that such response the Director of Madrasah Education, West Bengal is inconclusive and devoid of reasons. The Director of Madrasah Education, West Bengal being the respondent no. 2 was required to apply his mind while forwarding instructions to the concerned District Inspector of Schools (SE), North 24 Parganas relating to appointment of the petitioner in the context of issuance of approval memo in favour of the petitioner vide memo dated 25th November, 2019.

Accordingly, the memo dated 9th February, 2021 issued by the Director of Madrasah Education, West Bengal shall be kept in abeyance and will abide by the decision to be taken by the said Director pursuant to the direction passed by this Court today.

The Director of Madrasah Education, West Bengal being the respondent no. 2 is directed to take a reasoned decision on the claim of the petitioner on his appointment against available vacancy of non-teaching staff in the said Madrasah within a period of 8 (eight) weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or his representative, said Madrasah authority and the District Inspector of Schools (SE), North 24 Parganas personally. Such decision to be taken by the Director shall be communicated to the petitioner within a period of 1 (one) week thereafter.

With the above direction, 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.)