

08.12.2022
Court No.14
Item no.3
AD

WPA 8529 of 2021

**Anup Kumar Mandal
Vs.
State of West Bengal & Ors.**

Mr. Arunava Pati,
Mr. S.C Dhara

..... For the petitioner

Mr. Rezaul Hossain

..... For the State

Md. Sarwar Jahan,
Mr. Asif Mehdi,
Mr. S.N Thander

..... For the respondent no.2

Learned counsel appearing for the petitioner seeks leave to implead the Principal Secretary, Education Department, Government of West Bengal as a party respondent.

Leave is granted. Implead the Principal Secretary, Education Department, Government of West Bengal as party respondent no.10.

Learned counsel appearing for the petitioner is permitted to carry out the amendment here and now.

The added respondent no.10 is represented by Mr. Rezaul Hossain. His appointment may be regularized.

The writ petitioner was engaged as volunteer teacher in Geography in RK Kisku Smriti Madhyamik Siksha Kendra by the Ad hoc Managing Committee of the

Madhyamik Siksha Kendra on 2nd May, 2005. Since then the petitioner has been discharging his duties as volunteer teacher in the aforesaid subject in the said Madhyamik Siksha Kendra. The petitioner, by representation made to the authorities concerned, sought for engaging him as a permanent Siksha Samprasarak in the said Siksha Kendra, but to no effect. Accordingly, the petitioner has approached this Court by filing the aforesaid writ petition seeking the following reliefs:

“A writ of and/or in the nature of Mandamus by directing the respondent no.4 to accord approval in connection with the proposal for engagement of Volunteer Teachers of the RK Kisku Smriti Madhyamik Siksha Kendra, Village-Lohameria, Post Office-Sonagara, Bankura in favour of petitioner forwarded to him by the respondent no.5 immediately without any further delay;

b) A writ of and/or in the nature of mandamus by set-aside the No.26/BANK-161/SSK & MSK Cell Bankura and to give approval to the petitioner as permanent Siksha Samprasarak since the petitioner has been rendering service to the said institution as a teacher from the inception i.e. 02.05.2005.”

Learned lawyer for the petitioner submits that since the permanent vacancy of Siksha Samprasarak of the said Siksha Kendra still exists, the petitioner may be engaged in respect of this vacancy. Learned lawyer by referring to a letter dated 28th February, 2020 issued by the District Nodal Officer submits that the Nodal Officer has recognized that the petitioner has been discharging his duties as a volunteer teacher of the Madhyamik Siksha Kendra since 2nd May, 2005. On such score learned counsel emphasizes that the authority concerned be directed to engage the petitioner as Samprasarak

permanently.

Per contra, learned counsel appearing for the respondent no.2 submits that the petitioner never worked as Samprasarak and his engagement was not Samprasarak ever. Learned counsel points out that initially, proposal for engagement of Samprasarak would have been made by the Managing Committee of the concerned Siksha Kendra prior to 31st December, 2009 and the concerned Panchayat Samiti was the competent authority to approve the proposal. After the proposal was approved by the concerned Panchayat Samiti, engagement of Samprasarak would have been made. Learned counsel submits that since 1st January, 2010, the Managing Committee as well as the Panchayat Samiti have been debarred from taking any steps to engage any Samprasarak. Learned counsel further points out that by notification dated 23rd April, 2010, the Nodal Officer of the District is now the authority to make engagement of Samprasarak/Samprasarika of in any Madhyamik Siksha Kendra. Learned counsel argues that since the petitioner was never engaged as Samprasarak by a competent authority, the prayer made by him cannot be considered by the Court.

From the documents as annexed in writ petition I find that the petitioner was engaged as a volunteer teacher in Geography of RK Kisku Smriti Madhyamik Siksha

Kendra on 2nd May, 2005. As it appears from paragraph 3 of the writ petition, the Ad hoc Managing Committee of the Siksha Kendra, owing to non-availability of any permanent Samprasarak/Samprasatika, engaged the petitioner as a volunteer teacher in Geography for the Madhyamik Siksha Kendra. It appears from a letter dated 25th January, 2021 that the District Nodal Officer clarified that the volunteer teachers of Madhyamik Siksha Kendra meant those for whom the process for engagement of Samprasarak / Samprasatika was initiated by the Administrative Committee as against the approved vacancy and the Panchayat Samiti approved the panel before 31st December, 2009, but the recruitment process could not be completed. By the letter the proposal made by the Panchayat Samiti was not favourably considered by the District Nodal Officer.

Be that as it may, the fact remains that as against the permanent vacancy of Samprasarak of the said Siksha Kendra, no permanent Samprasarak has been engaged. But the petitioner has been discharging the duties of Siksha Samprasarak as against the permanent vacancy since 2nd May, 2005.

I feel that it will be conducive to interest of justice if the petitioner is given an opportunity to approach the authority concerned by making a comprehensive representation ventilating his grievances and the authority

concerned is directed to consider and dispose of the same within a time frame.

Accordingly, the petitioner is allowed to make a comprehensive representation to the respondent no.10, Principal Secretary, Department of Education, Government of West Bengal ventilating his grievances as to engaging him as a Samprasarak of RK Kisku Smriti Madhyamik Siksha Kendra within a period of three weeks from date. After the representation is received, the Principal Secretary, Education Department, Government of West Bengal shall consider and dispose of the representation by a reasoned order within four weeks from the date of making the representation. Once the order is made, the added respondent no.10 shall communicate the order to the petitioner within one week thereafter.

With the aforesaid direction, the writ petition stands disposed of.

Parties may act on server copy downloaded from the official website of this Court.

Photostat certified copy of the order, if applied for, be supplied to the parties on compliance of all formalities.

(Rabindranath Samanta, J.)