

26(ML) 10.11.2022
Sc Ct. no.22

WPA 7204 OF 2022

Sk. Abdur Rashid

Vs.

The State of West Bengal & Ors.

Ms. Sabita Khutia (Bhunya)

.... For the Petitioner

Affidavit-of-service, filed in Court, is taken on record.

None appears for the respondents, nor any accommodation has been sought for.

This is the second round of writ petition wherein the petitioner being a retired teacher of madrasah pursuing his claim for payment of gratuity for rendering his valuable employment with the relevant madrasah for about thirty years.

In the first round of writ petition a coordinate Bench of this Court was pleased to pass an order dated March 18, 2019 in **W.P. No. 14579 (W) of 2017** directing the Commissioner of School Education, West Bengal to decide the issue with a reasoned order.

Pursuant to the said direction, the Commissioner of School Education, West Bengal passed its order dated August 29, 2019, **Annexure-P16** to the writ petition which impugned in this writ petition with the following observation :

“ Being aggrieved, the petitioner filed instant writ petition challenging the action of

the authorities. The Hon'ble High Court has passed the order on 18.03.2019 directing the Commissioner of School Education, West Bengal to consider the matter and take a decision.

It is observed that in terms of the Notification No.896-MD dated 31.08.2006, the Directorate of Madrasah Education was formed and since then, the Commissioner of School Education, West Bengal has no authority to decide any matter of any Madrasah. In terms of the Notification no.896-MD dated 31.08.2006, the Director of Madrasah Education is the authority to dispose of any matter of any Madrasah.

In such circumstance, no relief is given to the petitioner. However, the petitioner has the liberty to approach the Director of Madrasah Education, West Bengal. All concerned be informed accordingly."

Since thereafter the petitioner made representations. The latest representation is dated February 9, 2022, **Annexure-P17** to the writ petition.

In view of the above, the respondent no.2 is directed to give an opportunity of hearing upon giving a prior hearing notice of about seven days to the petitioner and the respondent nos. 8 and 9 and after giving them an opportunity of hearing shall decide the issue by considering the representation dated February 9, 2022, **Annexure-P17** to the writ petition submitted by the petitioner with a reasoned order/decision.

The entire exercise as directed above shall be carried out and completed by the respondent no.2 within a period of four weeks from the date of communication of this order and then the respondent no.2 shall communicate the reasoned order to the petitioner and the

respondent nos. 5, 8 and 9 within a further period of two weeks from the date of the said reasoned order to be passed. Within a further period of four weeks from the date of communication of the said reasoned order, the respondent nos. 5, 7, 8 and 9 shall take all necessary consequential steps in favour of the petitioner to give an immediate effect to the said reasoned order without any delay positively.

It is made clear that this Court has not gone into the merits of the claim of the writ petitioner in any manner whatsoever. The writ petitioner shall be entitled to urge whatever points he wishes to urge before the respondent no.2. He shall be at liberty to rely upon whatever records and documents he wishes to rely upon at the time of hearing before the respondent no.2.

Since no affidavit has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition, **WPA 7204 of 2022** stands disposed of without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)