

Court No. 22
19.12.2022
(Item No. 20)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 7228 of 2022

Md. Hamidul Islam
VS
The State of West Bengal & Ors.

Md. Robiul Islam
Mr. Shamim-il-Bari
Mr. Raju Mondal
..... for the petitioner
Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
.....For the State
Mr. Kaustav Banerjee
Ms. Koyel Sinha
.... For respondent No. 7

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

The petitioner claims to be an aspirant for the post of **Mukhya Samprasarak in Charge** at **Faimuddin Ahmed Madhyamik Siksha Kendra, District – Murshidabad**. This is a Madrasah as confirmed by the learned advocates for the appearing parties. The Rule set up by the respondent No. 2 for selection of the said Mukhya Samprasarak in Charge, inter alia, provided for that the selection would happen from the existing eligible Samprasarak at the relevant Madrasah in terms of their merit.

Following such invitation for appointment the petitioner applied along with others. The petitioner complained that, the private respondent No. 7 not being qualified, was sought to be selected for the said post.

Mr. Robiul Islam, learned advocate appearing for the petitioner drew attention of this Court to a communication of one Ms. Dipti Singha Roy, **Annexure P-3** to the writ petition made to the respondent No. 5. The said communication was received by the office of the respondent No. 5 on March 31, 2022 as would be evident from the said document. The said communication spoke for itself.

Mr. Kaustav Banerjee, learned advocate appearing for the respondent No. 7, on instruction, denied the submission made on behalf of the writ petitioner and the case of the writ petitioner also. He submitted that, respondent No. 7 after being recommended by the Managing Committee of the relevant Madrasah was selected by the respondent No. 5. He further submitted that, the State representative, namely, Ms. Dipti Singha Roy, who represented the respondent No. 5 during the selection process on behalf of the State authority was not impleaded in this writ petition, therefore the writ petition is bad. There was no police complaint made in support of the contention mentioned in the said communication written by Ms. Dipti Singha Roy, **Annexure P-3** to the writ petition.

Mr. Arindam Chattopadhyay, learned State counsel appearing for respondent Nos. 1, 3, 4 and 5 submitted that, the writ petition being filed very close to the submission of the said communication before

the respondent No. 5, **Annexure P-3** to the writ petition, some time may be given to the respondent No. 5 to make necessary enquiry on the issue and come to a reasonable conclusion on the basis of the statement made in **Annexure P-3** to the writ petition,

Considering the submissions recorded above and on perusal of materials on record, to sub-serve justice, the respondent No. 5 is directed to consider the case of the petitioner in **Annexure P-3** to the writ petition by issuing at least seven days prior hearing notice to the petitioner, respondent No. 7, the Managing Committee of the relevant Madrasah i.e. respondent No. 6, the representatives of the respondent No. 5, Ms. Dipti Singha Roy, the author of the said communication, **Annexure P-3** to the writ petition, Razak Mondal and then after giving them all an opportunity of hearing shall decide the issue mentioned in **Annexure P-3** to the writ petition with a reasoned order/decision strictly in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 5 positively within a period of four weeks from the date of communication of this order and then the respondent No. 5 shall communicate its reasoned decision/order to the petitioner and all the parties referred to above within a further period of two weeks from the date of the said reasoned order to be passed.

In the event, the said reasoned order goes in favour of the petitioner then all further and consequential steps for appointment of the petitioner for the post of Mukhya Samprasarak in charge shall positively be taken by the respondent No. 5 and the respondent No. 3 within a further period of four weeks from the date of the reasoned order to be communicated to respondent No. 3 by the petitioner.

It is made clear that, this Court has not gone into the merit of the claim of the writ petitioner in any manner. The petitioner and all other parties as referred above shall be at liberty to urge whatever points they wish to urge and will be at liberty to rely upon whatever records and documents they wish to rely upon before the respondent No. 5.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is further made clear that, this order shall not create any equity or right in favour of the petitioner, if the petitioner is not otherwise eligible to receive the said appointment for the post of Mukhya Samprasarak in-charge strictly in accordance with law.

On the above terms, this writ petition being **WPA 7228 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)