

25.03.2022
SL No. 36
Court No. 24
(P.M)

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 13219 of 2017

**Shravan Kumar Dubey
Vs
The State of West Bengal & Ors.**

Mr. Tulsi Das Maiti,
Ms. Snehasish Bala
... for the petitioner.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee
... for the State.

Mr. Bhaskar Prasad Vaisya,
Mr. Nilay Baran Mondal
... for DPSC Kolkata.

The petitioner seeks regularization in service. He claims to have been appointed as a primary school teacher and is serving on and from 1992. He made representation before the respondent authority seeking regularization.

As the representation of the petitioner was not considered by the respondent authorities, accordingly he filed a writ petition before this Court being W.P. No. 5402(W) of 2015 which stood disposed of on 5th May, 2015 directing the District Inspector of Schools, Kolkata to consider the representation filed by the petitioner.

The representation of the petitioner was duly considered and an order was passed on 31st August,

2015 rejecting the prayer of the petitioner for regularization.

The petitioner is aggrieved by the same and impugns the same in the present writ application.

The impugned order mentions that the petitioner was serving in the school without any appointment/approval from Kolkata District Primary School Council or the District Inspector of Schools, Primary Education, Kolkata. The petitioner has not been able to produce any authentic document in support of his appointment.

The impugned order further mentions that the Rules relating to appointment of primary school teachers were not followed by the school where the petitioner was allegedly serving. The qualification and the exam Rules which is fixed in the RTE Act, 2009 is not applicable in this case.

Learned advocate appearing for the petitioner candidly submits that the petitioner was appointed only because there was a shortage of teachers but admittedly the post in which the petitioner was serving, is not a sanctioned one. He was appointed as per the resolution of the Managing Committee of the school.

It is settled law that any appointment which is made contrary to the recruitment rules cannot be supported in law. The petitioner was admittedly

serving in a post not sanctioned by the authority. There is nothing on record to show that regular recruitment rules were followed at the time of his appointment. Only on the basis of resolution adopted by the Managing Committee of the School, service of the petitioner cannot be regularized.

In view of the above, there is no scope for interfering with the order impugned.

Writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)