

25.08.2022
Court No.13
Item No.13
AP

WPA 16536 of 2022

**Ardhendu Shekhar Aguan
Vs.
State of West Bengal and Ors.**

Mr. Ekramul Bari
Mr. Sunit Kumar Roy

... For the Petitioner.

Mr. Supriyo Chattopadhyay
Mr. Suman Dey

... For the State.

Mr. Indranil Roy
Mr. Debasis Maitra

... For the school authority.

Affidavit of service filed in Court today be kept
with the record.

The petitioner is aggrieved by an order of
District Inspector of Schools (SE), Purba Medinipur
dated 9th June 2022 refusing to approve the service
of the petitioner as a Group D staff of the Lakshya
High School, Purba Mednipur.

The petitioner was admittedly recommended
by the School Service Commission and was
appointed by the West Bengal Board of Secondary
Education on 19th April 2018. The petitioner joined
the school and absented himself from duty from 27th
April 2018 to 4th May 2018. He thereafter joined the
school on 5th May 2018 and again absented himself
from duty from 8th May 2018. He thereafter remained
absented until 11th March 2020, when he joined the
school after producing a fitness certificate.

The school for obvious reasons sought replacement of the petitioner with another suitable candidate by communications dated 11th May 2018 and 8th August 2018.

The matter of approval of the petitioner's service came to be taken up by the District Inspector of Schools (SE), who appointed inspector to conduct an official inspection in connection with the petitioner's conduct. From that aforesaid inspection two reports emerged. The first report recommended the petitioner's joining. The second report negated the first report and the recommendation was against the petitioner's approval.

The impugned order came to be passed pursuant to an order of a coordinate Bench of this Court dated 12th April 2022 passed in WPA 11070 of 2021. By the said order the Coordinate Bench of this Court directed to consider the matter afresh uninfluenced by the two reports. The District Inspector of Schools (SE) has declined approval.

This Court notes that the medical condition of the petitioner was never ever verified by any of the authorities. The school, which had initially refused to accommodate the petitioner and sought for a replacement in his place from the Board, now submits that they are satisfied with the service of the petitioner.

Be that as it may, given the aforesaid contradictions and flip flops between the parties, this Court is of the view that the medical condition and fitness of the petitioner to perform future duties must be examined by the CMOH, Purba Medinipur.

The CMOH, Purba Medinipur at Tamluk shall submit a report to the District Inspector of Schools (SE), Purba Medinipur regarding the bona fides of the medical certificates produced by the petitioner for the aforesaid period of absence of the petitioner. The CMOH shall also proceed independently and assess the physical condition of the petitioner as regards the ability to discharge his duties in future. For the aforesaid purpose the CMOH may at his discretion constitute a Medical Board.

The CMOH shall submit the report to the District Inspector of Schools (SE), Purba Medinipur within a period of one month from the date of receipt of a copy of this order.

Based on the opinion of the CMOH and if the petitioner found fit for discharging his official duties not only for the time being but also in future, and the bona fides of the medical documents produced by the petitioner in 2020, a suitable decision on the approval of the petitioner's service shall be made by the District Inspector of Schools (SE), Purba Medinipur.

If approval is granted, the District Inspector of Schools (SE), Purba Medinipur shall also be entitled to recommend the date from when approval of the petitioner's service, shall be effective.

The District Inspector of Schools (SE), Purba Medinipur shall pass suitable orders within a period of two months from the date of receipt of a copy of the report from the CMOH.

The request of the school to the West Bengal Board of Secondary Education dated 11th May 2018 and 8th August 2018 shall be kept in abeyance.

With the aforesaid directions, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)