

S/L 32
26.04.2022
Court No.24
SD

WPA 21545 of 2018

Abdul Lahil Mahmud
Vs.
The State of West Bengal & Ors.

Mr. Sujit Kumar Rath
Mr. Sukumar Sarkar

...for the Petitioner.

Mr. Tapan Kumar Mukherjee
Ms. Saheli Mukherjee

...for the State.

Mr. Kanak Kiran Bandyopadhyay

...for the SSC.

The petitioner participated in the RLST 2007 conducted by the West Bengal Madrasa Service Commission.

He filed a writ petition before this Court earlier claiming that he was a successful candidate and he ought to have been appointed as there were vacancies which remained unfilled.

The writ petition being WP 6367 (W) of 2011 was disposed of by a coordinate Bench of this Court on January 8, 2016 wherein the Court directed the Director of Madrasa Commission to recommend the name of the petitioner for appointment. The Court was of the opinion that as subsequently 58 vacancies were declared the petitioner's name ought to have been recommended for appointment.

An appeal was preferred by the State of West Bengal against the order passed by the learned Single Judge. The Hon'ble Division Bench in FMA 2805 of 2016 (*State of West*

Bengal & Another vs. Abdul Lahil Mahmud & Ors.) by an order dated December 8, 2017 was pleased to set aside the order passed by the learned Single Judge.

The Court was of the considered opinion that there was no dispute that seven vacancies had been declared in connection with RLST 2007 and the writ petitioner participated in such selection test. All the seven vacancies were filled up. None of the single vacancy for RLST 2007 remained unfilled. In absence of a vacancy, the petitioner could not have legitimately been appointed.

The Court was of the further opinion that the petitioner could not have been considered for any subsequent vacancies that might have arisen.

The Court observed that if indeed the writ petitioner was desirous of obtaining a recommendation in respect of vacancies which had arisen during the subsistence of the panel, he ought to have approached the appropriate authority with specific queries under the Right to Information Act, 2005 and obtained specific information before presenting the writ petition. There being no particulars in the writ petition with regard to the exact date of creation of vacancies, the learned Single Judge was not justified in requiring the Director to make a recommendation in favour of the writ petitioner.

Getting a cue from the order passed by the Hon'ble Division Bench, the petitioner applied under the Right to

Information Act, 2005 seeking information with regard to number of vacancies.

The grievance of the petitioner is that there has been no reply to his queries made under the Right to Information Act, 2005.

The petitioner thereafter made representation before the Director of Madrasha Education and also before the Chairman of the Madrasha Service Commission in the year 2018 and alleges that the said representation have not been disposed of till date.

In the event, the petitioner was aggrieved by the act of the Commission in not furnishing the required information under the Right to Information Act, he ought to have approached the proper forum within the time as specified in the Act itself.

The writ court, after lapse of nearly four years of filing the application under the Right to Information Act, is not the appropriate forum to pass any order directing the respondents for furnishing the information, as sought for by the petitioner.

That being the position of law, the Court cannot pass any direction for consideration of the representation of the petitioner.

In view of the above, no relief can be granted in favour of the petitioner in the instant case.

Accordingly, the writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Amrita Sinha, J.)