

Court No. 22
06.12.2022
(Item No. 108)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 23934 of 2022

Sudipta Mapder & Ors.
VS
The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya
Mr. Shahan Shah
..... for the petitioners
Mr. Prosenjit Mukherjee
Ms. Madhurima Sarkar
.....For Madrasah Service Commission

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

The 16 number of writ petitioners who are claiming to be the **Assistant Teachers** of diverse Madrasahs in the State. Their issue is common in this writ petition. They claimed that, they should be granted appropriate option for transfer in respect of the upgraded vacancies. A representation was also made on their behalf dated October 17, 2022, **Annexure P-12** to the writ petition at **page 99** thereto. The respondent No. 5 had not addressed the issue on the said representation.

Mr. Kamalesh Bhattacharya, learned counsel appearing for the writ petitioners submitted that, the moment fresh appointments would made and the vacancies would be filled up, the writ petitioners will suffer irreversible prejudice.

None appears for the respondent Nos. 3, 4 and 5 who are the answering respondents in reality.

Mr. Prosenjit Mukherjee, learned advocate who normally appears for the respondents in this type of matters is present in Court, he is requested to appear in this matter and hold the brief for the respondent Nos. 3, 4 and 5. His appearance along with Ms. Madhurima Sarkar, learned advocate as his junior is directed to be regularized forthwith.

Considering the issues involved in this writ petition, to sub-serve justice the respondent No. 5 is directed to consider the representation of the petitioners dated October 17, 2022, **Annexure P-12** to the writ petition at **page 99** thereto upon giving a seven days prior hearing notice to the petitioners advocate on record and then after giving them an opportunity of hearing shall decide the issue on the same representation with a reasoned order/decision.

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 considering the urgency involved in this matter and then the respondent No. 5 shall communicate its reasoned decision/order to the petitioners' authorized representative and/or its present advocate on record within a further period of two weeks from the date of the said reasoned order to be passed.

Petitioners will be at liberty to participate in the hearing through its duly authorized representative.

It is made clear that, this Court has not gone into the merit of the claim of the writ petitioners in any manner whatsoever. The petitioners 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 in favour of the petitioners, if in the event, the petitioners are not eligible to sustain their claim strictly in accordance with law.

There are 16 writ petitioners. This order shall be effected subject to payment of the ad veloram Court fees in accordance with law.

On the above terms, this writ petition being **WPA 23934 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.)