

13-12-2022
ct no. 22
Sl.32
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WPA 26085 of 2022
St. Mary Goretti Girls' High School (HS) & Anr.
-Versus-

The State of West Bengal & Ors.

Mr. Sandip Kr. De,
Mr. Abhijit Sarkar

...for the petitioners

Mr. Joydip Banerjee

...for the State

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

The first petitioner is a minority school. By virtue of a Government Order dated March 30, 2022, **Annexure P-2** to the writ petition, the appropriate State authority had sanctioned 30 numbers of additional teaching posts in respect of the first petitioner, at page 26 (serial no.593) to the writ petition.

Drawing attention to **Annexure P-5** to the writ petition which is a communication dated March 18, 2014 and **Annexure P-8** to the writ petition, Mr. Sandip Kr. De, learned Advocate for the petitioners submitted that 26 numbers of additional teaching posts were already sanctioned and accordingly filled up at the first petitioner school. The petitioners now claim appointment for the 4 remaining sanctioned

additional teaching posts to complete its total sanction strength of 30 numbers of additional teaching posts.

Learned Advocate of the petitioners submitted that there are about five thousands students who are imparted with education from the school in various classes. Learned Advocate for the petitioners further drew attention of this Court to **Annexure P-11** to the writ petition which is a communication dated September 29, 2022 issued by the Jurisdictional District Inspector of Schools and submitted that the clarification was sought for from the school as to the categories in which the school sought for appointment of the 5 numbers of additional posts. By a communication dated October 21, 2022, **Annexure P-12** to the writ petition, the school duly clarified its demand for appointment for the balance additional posts.

The petitioners contend that these balance 4 numbers of additional posts are immediately required to be filled up to cater the immediate need of the students of the school.

Mr. Joydip Banerjee, learned Advocate appearing for the respondents relied upon a communication dated November 4, 2022 issued by the Jurisdictional District Inspector of Schools to the Commissioner of School Education, a copy of the said communication is taken on record as the same is not

a part of the writ petition, and submitted that though it was made clear in the guidelines framed by the school to initiate the recruitment process within six months following the date of the sanction of the posts, the school did not commence such procedure within the said six months and had commenced thereafter. This was in violation of the guidelines framed by the Governing Body of the relevant school. He further submitted that, in the meeting of the Managing Committee of the school held on October 4, 2021, it was decided that 4 numbers of posts out of the rest 5 was to be filled up through advertisement and those posts were made for normal section with certain specified subjects. He submitted that there was no justification for this explanation or the logic for appointment of such additional posts in respect of those specified subjects only.

After considering the rival contentions raised on behalf of the appearing parties and upon perusal of the materials on record, it appears to this Court that the Government order dated March 30, 2012, **Annexure P-2** to the writ petition was very specific in so far as the first petitioner/school was concerned that 30 numbers of additional posts were sanctioned. The said Government order did not spell out as to the manner and mode and the subjects for which such additional teaching posts would be appointed or filled up. This Court is, therefore, of the considered opinion

that, the manner and mode of appointment and specified subjects for seeking appointment of the additional teaching posts were left at the discretion of the school. For all practical purpose it is the relevant school authority who is the master on its own roll in so far as the requirement of subjectwise teacher is concerned. The said Government order does not reserve any power in favour of the State authority to intervene in any manner as to the subjectwise requirement of teachers required by a school. The Government order only speaks for filling up 30 numbers of additional teaching posts which had already been sanctioned under the said Government order and it is only the zone of control the State had reserved with itself under the said Government order.

In so far as the delay is concerned that the 25 numbers of appointments were given simultaneously with the said Government order almost, the rest 5 was not given. Such an inaction on the part of the State authority led the petitioners to file a previous writ petition **WP 5640 (W) of 2019** in which an order was passed on April 5, 2019, **Annexure P-3** to this writ petition, directing the Jurisdictional District Inspector of Schools to consider the case of the petitioners. The Jurisdiction Inspector of Schools then took a decision in terms of the said direction of the Co-ordinate bench on April 11, 2020, **Annexure P-4** to the writ petition. From the said document

dated April 11, 2020, **Annexure P-4** to the writ petition, it appears that the sanction for 5 numbers of additional teaching posts dated March 18, 2014 was made over to the school authority along with the said decision dated April 11, 2020, that is, almost after six years and then the posts sanctioned memo dated March 18, 2014 was issued by the State authority. Therefore, considering this, this Court is of the view that no delay could be attributed on the part of the school authority as alleged by the learned State Advocate.

In as much as, the present status is that 26 additional teaching posts are already filled up after being approved by the State authority at the school, thus the State authority had acted upon the Government order dated March 30, 2012, **Annexure P-2** to the writ petition. The State, at this stage, cannot contend anything to the contrary but is obliged to approve the appointment and fill up the balance 4 numbers of additional teaching posts sanctioned under the said Government order dated March 30, 2012, **Annexure P-2** to the writ petition read with the order dated March 18, 2014, **Annexure P-5** to the writ petition forthwith without any further delay.

In as much as there are about five thousands students in the school, the interest of such students

should be of paramount importance which can also be addressed if such appointments are made.

In view of the foregoing discussions and reasons, the respondent no.3 shall take all necessary steps to approve the appointment of the said balance 4 numbers of additional teaching posts positively within a period of 6 weeks from the date of communication of this order strictly in accordance with law.

It is made clear that whatever objections raised by the State authority stands set aside in respect of filling up the said 4 numbers of additional teaching posts at the petitioner no.1/school.

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

On the above terms, this writ petition **WPA 26085 of 2022** stands allowed, without any order as to costs.

(Aniruddha Roy, J.)