

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 26127 of 2022

Rajya Parshwa Shikshak Samanway Samity & Ors.
Vs.
The State of West Bengal & Ors.

Mr. D. Saha Roy
Mr. Indranath Mitra
... For the petitioners

Mr. Tapan Kumar Mukherjee, Sr. Advocate
Ms. Tuli Sinha
Mr. Rajat Dutta
... For the State

Two affidavits of service filed in Court today, are taken on record.

The first petitioner is an organisation of the Para Teachers, the second petitioner is the office bearer of petitioner no.1 and rest of the petitioners are the Para Teachers as submitted by Mr. Indranath Mitra, learned advocate appearing for the petitioners.

Mr. Indranath Mitra, learned advocate appears for the petitioners drew attention of this Court at **Annexure "P-2"** at page 33 to the writ petition which is a Government Order dated November 16, 2010 containing the policy decision of the State for child tracking by the Para Teachers. He then drew attention to **Annexure-I** at page 37 to the writ petition. He then drew attention to a Government Notification dated August 16,

2022 (**Annexure “P-3”** at page 41 to the writ petition). Clause 7 of the said notification provided that **enumerators may be asked to visit all household of concerned booth for collecting new data and updating of existing data of children up to 0 to 18 years old for uploading the same in the Portal through Mobile App.**

Mr. Mitra submitted that the average honorarium received by the said each Para Teachers are at the best Rs.10,000/- to Rs.12,000/- per month. The cost of a workable android mobile phone will not be permitted to be borne out by the individual Para Teacher who received a payment to the extent mentioned above. In this backdrop, the Association made a representation dated October 21, 2022 (**Annexure “P-4”** to the writ petition) before the respondent no.3. The same had not yet been received any attention.

Then a justice demand was made through an advocate's letter dated October 30, 2022 before the respondent no.3, the same is also lying idle. Mr. Mitra then drew attention of this Court to **Annexure “P-6”** at page 50 to the writ petition which is a show cause dated November 2, 2022 issued by the respondent no.6 against these members of Para Teachers named therein.

Mr. Mitra then submitted that it is the State policy dated November 16, 2010 (**Annexure “P-2”** to the writ petition) and then August 16, 2022 (**Annexure “P-**

3” to the writ petition), which essentially contain the stipulation of the necessary **Mobile App** but the State had not provided the adequate arrangement to give such policy decision effected by the Para Teachers.

Mr. Tapan Kumar Mukherjee, learned senior advocate and the Additional Government Pleader appearing for the respondent nos.1 to 4 submitted that in terms of the State policy decision, all **enumerators** had already have necessary Android phone through which they can access to the necessary **Mobile App**. He further submitted that **enumerators** have been paid Rs.300/- per month per booth on account of internet connection charges to give effect to the said State policy.

Mr. Mitra appearing for the writ petitioners submitted that all **enumerators** are the Para Teachers. To become an enumerator, one has to be a Para Teacher.

The rest of the respondents are not represented.

After considering the rival contentions of the parties and after considering the materials on record, this Court is of the firm view that when a State has framed a policy, it is equally the responsibility of the State to take all possible steps and to render all possible assistance to the people concerned to give effective effect and implement the said State policy so that the State policy should not be a piece of paper and would be rendered redundant.

In view of the above and keeping in mind the said responsibility of the State as observed by this Court, the respondent no.3 shall decide the representations of the petitioners dated October 21, 2022 (**Annexure “P-4”** to the writ petition) read with the justice demand dated October 30, 2022 (**Annexure “P-5”** to the writ petition) after giving at least seven days prior hearing notice to the petitioner no.2 as the authorised representative of the petitioners and upon giving him an opportunity of hearing shall decide the issue with a reasoned order/decision.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.3 positively within a period of four weeks from the date of communication of this order.

While deciding the issue, the respondent no.3, being a State authority, shall bear in mind that a policy decision framed by the State is required to be implemented to its fullest effect and for that the State has also some responsibility to make necessary provisions so that such a policy decision shall not be rendered redundant in effect.

It is made clear that this Court has not gone into the merits of the claim of the petitioners in any manner. The petitioners, through their authorised representative, as directed above, shall be at liberty to urge whatever

points they wish to urge relying upon whatever documents and records they wish to rely upon before the respondent no.3.

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

Pending such decision of the respondent no.3, no coercive step shall be taken against the Para Teachers on the basis of the cause shown in the said show cause notice dated November 2, 2022 (**Annexure “P-6”** to the writ petition). The said show cause notice dated November 2, 2022 (**Annexure “P-6”** to the writ petition) stands set aside and/or quashed.

It is further made clear that the appropriate authority of the State shall not be precluded to take steps against the Para Teachers strictly in accordance with law after arriving at a decision by the respondent no.3, if situation so arises.

On the above terms, this writ petition, **WPA 26127 of 2022**, stands **allowed**, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Aniruddha Roy, J.)