

Sisir Roy  
-vs-  
State of West Bengal & Ors.

Mr. Ashis Kumar Paul

....for the petitioner.

The grievance of the petitioner is that in spite of working a non-teaching staff with effect from 24<sup>th</sup> June, 2011 till date approval of appointment of the petitioner has not been accorded by the concerned respondent authorities.

The learned advocate representing the petitioner has submitted that he made a representation dated 8<sup>th</sup> September, 2015 to the concerned District Inspector of Schools (SE), Birbhum seeking approval of appointment in his favour which has not been considered by the authority. Therefore, according to the petitioner this is a fit case where direction needs to be given either for grant of approval of appointment in favour of the petitioner or the concerned District Inspector of Schools (SE), Birbhum ought to be directed to consider the representation of the petitioner.

This Court has heard the learned advocate

representing the petitioner and also considered the document dated 16<sup>th</sup> February, 2018 issued by the teacher-in-charge whereby it has been certified that petitioner has been working as non-teaching staff with effect from 24<sup>th</sup> June, 2011.

On behalf of the petitioner it has not been demonstrated before this Court that the petitioner was appointed as non-teaching staff in the school in question against sanctioned vacancy and he was appointed with effect from 24<sup>th</sup> June, 2011 upon following the relevant recruitment rules prevailing at the material point of time after issuing prior permission by the concerned District Inspector of Schools.

In absence of observance of recruitment rules in the matter of appointment of the petitioner against a vacancy which is not sanctioned it transpires that no enforceable legal right has been established in favour of the petitioner warranting issuance of mandamus for grant of approval.

In this regard, reliance has been placed on the judgment of the Hon'ble Apex Court delivered in the case of State of Karnataka -vs- Uma Devi reported in 2006 Vol. 4 SCC 1.

Accordingly, the writ petition stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

**(Saugata Bhattacharyya, J.)**