

03.01.2022
Srimanta
Ct. No. – 02
Sl. No. 13

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 628 of 2021

**Rejaul Sarkar
-versus
The State of West Bengal & Ors.**

Mr. Sakti Pada Jana, Adv.

...For the Petitioner.

Mr. Subir Kumar Saha, Adv.,

Mr. Momenur Rahman, Adv.

...for the State.

The petitioner, an assistant teacher in a secondary school has filed the instant writ petition praying for higher scale of pay on the ground that he acquired post-graduate degree while in service.

The materials-on-record shows that the petitioner filed WPA No. 1042 of 2019 before this Court and a Coordinate Bench vide order dated 24th January, 2020 passed an order as hereunder:-

“It appears that the District Inspector of Schools has failed to exercise the jurisdiction cast upon him in not taking a decision with regard to the payment of higher scale of pay to the petitioner who is an assistant teacher and has prayed for higher scale of pay on account of having obtained M.Sc. degree upon obtaining prior permission from the school authorities

and upon obtaining study leave with full pay from the West Bengal Board of Secondary Education”.

“The G.O. No. 593 dated November 27, 2017 (sic), in my view, is not an impediment towards granting the higher scale of pay”.

“Under such circumstances, this writ petition is disposed of with a direction upon the District Inspector of Schools (SE), Cooch Behar to take a decision in the matter with regard to the prayer of the petitioner for higher scale of pay having obtained M.Sc. degree through distance mode, upon applying for prior permission before the school authorities, the board as also the District Inspector of Schools. The petitioner cannot be held responsible if the District Inspector of Schools had decided not to proceed with his application seeking prior permission and especially in view of the decisions of the Hon’ble High Court with regard to similarly situated persons”.

“The District Inspector of Schools (SE), Cooch Behar should take a decision in accordance with law and pass a reasoned and speaking order in the light of the observations made herein. Such decision should be taken and communicated to the petitioner within a period of one month from the date of communication of this order”.

It is contended by the learned advocate for the petitioner referring to the order dated 20th February, 2020 passed by the District Inspector of Schools (SE), Cooch Behar (Annexure – P/13 at page 55) that the District Inspector of Schools rejected the prayer of the petitioner for according higher scale of pay on the grounds quoted hereinbelow:-

“On perusing the relevant testimonials of master degree of the petitioner it appears that he enrolled himself as a student of master degree with Periyar University, Salem, Tamil Nadu which is a state university and open study centre, namely, Ambition Institution of Higher Education (AIHE), Siliguri to conduct the course of maser degree through distance mode of education. But as per guidelines issued by the University Grants Commission in respect of territorial jurisdiction and offering of programmes through off campus/study centres etc. by Institutions/Universities, it is required to authenticate the programme through distance mode by the said study centre through UGC/erstwhile DEC since some of universities are offering programme through distance mode without approval of university/erstwhile DEC and several Universities/Institutions opened there study centres in violation of the policy of UGC and erstwhile DEC on territorial jurisdiction.

The said guideline also stated that no University, whether central, state, private or deemed, can offer its programmes through franchising arrangement with private coaching institutions even for the purpose of conducting courses through distance mode.

Moreover, it is required to be mention that though the petitioner has not obtained prior permission from this office through the Managing Committee of the school as embodied in G.O. No. 593-SE (B) dated 27.11.2007".

Learned advocate for the petitioner brings my attention to a letter issued by the Deputy Registrar and Public Information Officer on perusal of which it is learnt that the Periyar University is the State University and the UGC has granted institutional recognition to Periyar Institute of distance education to offer programmes up to 2014-15 and is running the programme from 2015-16 to 2018-19 by approval of the syndicate which is statutory body of Periyar University with the aid of interim orders issued by the Hon'ble High Court of Madras. He also refers to page no. 57 of the writ petition. It is learnt from the said document that Periyar University, Salem was recognized as a State University and it was given institutional recognition to offer programmes to distance mode.

Thus, it is submitted by the learned advocate for the petitioner that Periyar University, Salem is a State University and the status was granted by the UGC. The said University is also empowered to offer distance education. The petitioner obtained M.Sc. degree from the said University and he is entitled to higher scale of pay.

Learned advocate for the State with all his fairness submits that the objection raised by the District Inspector of Schools (SE), Cooch Behar has no leg to stand because the University was recognized by UGC to offer post-graduate studies by distant education system. Moreover, the legal impediment of G.O. No. 593-SE (B) dated 27.11.2007 is held to be not applicable in the previous writ petition being WPA No. 1042 (W) of 2019.

In view of such circumstances, the order dated 20th February, 2020 is quashed.

The District Inspector of Schools (SE), Cooch Behar is directed to verify the authenticity of the documents annexed in page 56 and 57 of the instant writ petition and if it is found that the said University is affiliated to the UGC and entitled to offer post-graduate distance education, he shall pass necessary order of higher scale of pay in favour of the petitioner. Entire exercise shall be completed within one month

from the date of communication of the server copy of the order.

The petitioner is directed to serve a copy of the order along with a copy of the writ petition to the District Inspector of Schools (SE), Cooch Behar for his consideration of authenticity of the documents annexed in page 56 and 57 of the writ petition and to pass an order in favour of the petitioner.

The instant writ petition is, thus, **disposed of** on contest.

(Bibek Chaudhuri, J.)