

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P. (C) No.3481 of 2007

Mir Manawar Ali

..... ***Petitioner***
Mr.P.K.Rath, Senior Advocate

Versus

1.State of Orissa
2.Director, Directorate of
Secondary Education, Orissa
3.Inspector of Schools, Cuttack
Circle, Cuttack
4.Managing Committee represented
through Secretary, Madrasa
Sultania

..... ***Opposite Parties***
Mr. S.N.Mohapatra, SC,
School & Mass Education Department

CORAM:
JUSTICE SAVITRI RATHO

ORDER
22.09.2022

Order No.
17.

(Through hybrid mode)

1. This writ application is filed with the following prayers:
“It is therefore prayed that this Honourable Court may be graciously pleased to issue appropriate writ to the Opp. Party No.2 for according approval of the appointment of the petitioner with respective effect to enable him to get the monthly salary from the management of Madrasa.”
2. As pleadings area complete, the writ application is taken up for final disposal.
3. Mr.Rath, learned counsel for the petitioner submits that the father of the petitioner, Mir Mamtaz Ali retired from the post of

Moulavi teacher in the year 1994 and after his retirement the post fell vacant in Madrasa Sultania, Buxi Bazar, Cuttack. As the petitioner possessed requisite qualification having passed Moulavi Examination from State Board of Madrasa Examination, Orissa, Bhubaneswar, after facing an interview on 02.09.1994, he was duly selected and appointment letter No.178 dated 20.10.1994 had been issued to him. He submitted his joining report on 01.11.1994. Pending approval of post of the petitioner, the management of Madrasa Sultania (opposite party No.4) started paying his salary as admissible to the Moulavi teachers and he has received his salary covering the period 01.11.1994 to 31.05.2001. But since June, 2001, the management has stopped payment of his salary for which the petitioner had approached the Director, Directorate of Secondary Education, Orissa, Bhubaneswar (opposite party no.2) for approval of his appointment by filing a representation on 28.01.2002, but no decision has been taken by the opposite party No.2 thereon. The Principal, Madrasa Sultania had also written a letter to the Inspector of Schools (opposite party No.2), but with no result.

4. A counter affidavit has been filed by the opposite party Nos.2 and 3 wherein it has been stated that the writ petition is totally misconceived as there is no necessity for direction to accord approval to the post of the petitioner since the post of Assistant Moulavi against which the petitioner claims to have been appointed is an approved post and Mir Mamataz Ali (father of the petitioner) was receiving Grant-in-Aid against the said post till his retirement in the year, 1994. In order to enable the petitioner to get salary (G.I.A.), the appointment

of the petitioner by the Managing Committee of Madrasa is required to be approved but such prayer has not been made by the petitioner. It has also been submitted that as the claim of the petitioner is coming under the purview of Section 24-B of the Orissa Education Act, 1969, the writ petition is not maintainable before this Court. It has been further stated that after retirement of the father of the petitioner, the post of Assistant Moulavi fell vacant and the Managing Committee should have intimated about this vacancy to the State Selection Board for allotment of a suitable candidate for appointment but the Managing Committee violated Rule-5 of the Orissa Education (Recruitment and Conditions of Service of Teachers and Members of the Staff of Aided Education Institutions) Rules, 1974 by appointing the petitioner. The fact of superannuation of father of the petitioner nor appointment of the petitioner had not been intimated by the Management for which Grant-in-Aid was continued to be released and the petitioner received payment from 1.11.1994 to 31.05.2001. Opposite party No.3 (Inspector of Schools) has no authority to accord approval. It is further submitted that the opposite party No.3 has no authority to approve the appointment of staffs in Madrasa for which this fact was intimated to opposite party No.2 and accordingly Grant-in-Aid in favour of the petitioner was stopped. But after due enquiry, the opposite party No.3 vide Letter No.7249 dated 1.6.2002 (Annexure-3) requested the opposite party No.2 for consideration of the approval of appointment of the petitioner. Opposite party No.2 after verification of records has sought permission of the opposite

party No.1 vide letter No.556 dated 08.11.2007 and the same is pending consideration.

5. In view of the above, without expressing any opinion on the merits of the case, this Court directs that if letter No.556 dated 08.11.2007 is still pending consideration, a decision may be taken on the same by opposite party No.1 expeditiously and if possible within a period of six weeks from the date of receipt of a certified copy of this order.

Learned counsel for the petitioner undertakes to produce/submit a certified copy of this order before the opposite parties No.1 and 2 for this purpose.

6. The writ application is accordingly disposed of. There shall be no order as regards costs.

7. Urgent certified copy of this order be granted as per rules.

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Savitri Ratho
Judge

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