

WPA 1050 OF 2020

Sri Sandipan Ghosh

Vs.

The State of West Bengal & Ors.

Mr. Amales Ray
Mr. Himangshu Kr. Ray
Ms. Mousumi Bhawal.
....For Petitioner

Ms. Sanghamitra Nandy
Mr. Bidhan Biswas.
....For the State

Ms. Koyeli Bhattacharyya
...For the WBBSE

Mr. Md. Sarwar Jahan
Mr. Asif Mehdi.
...For the Respondent
No.5

Affidavit-of-service, filed in Court, is taken on record.

Leave is granted to the petitioner to file the supplementary affidavit affirmed on January 30, 2023 disclosing the vacancy position of a nearby school to the school, where the original appointment was made for the petitioner, namely **Raiganj Coronation High School (H.S.), Uttar Dinajpur**. Copy of the said supplementary affidavit has already been served upon the respondents.

The petitioner at present is working at one **Purgram S.C. High School, District – Uttar Dinajpur** after qualifying the **State Level Selection Test, 2011** as an **Assistant Teacher for the subject – Biological Science**. Subsequently, the petitioner participated in the

State Level Selection Test, 2016 and successfully qualified. The ***petitioner received the recommendation for appointment from the respondent no.2 at page 30 to the writ petition*** and in terms of such recommendation the petitioner was recommended to join at ***Raiganj Coronation High School (H.S.), District – Uttar Dinajpur***. The consequential ***Appointment Letter*** was also issued by the respondent no.3 ***dated September 13, 2018 at page 33*** to the writ petition. The declaration of the petitioner for opting the school would be available at ***page 32*** to the writ petition.

While the petitioner had gone to join the said ***Raiganj Coronation High School (H.S.)*** he was declined by the relevant school authority and the relevant school authority by a written communication dated ***August 23, 2018 at page 34 to the writ petition*** informed the respondent no.4 that the suitable vacancy for appointment of the petitioner was no more available in the said school at that juncture. As a result, the petitioner could not join the said Raiganj Coronation High School. Being aggrieved by the act on the part of the relevant school authority and the State authority by not placing the petitioner and allowing him to join at a proper school to which he is eligible, the petitioner moved this writ petition.

Mr. Amalesh Ray, learned advocate appearing for the writ petitioner drawing attention to ***page 7 to the***

supplementary affidavit affirmed on January 30, 2023, which is a communication dated **August 5, 2022** submitted that, at a nearby school, viz. **Kaliyaganj Parbati Sundari High School (H.S.), Uttar Dinajpur** a suitable vacancy is available as would be evident from the document of the West Bengal Board of Secondary Education. The petitioner seeks an appointment there.

Ms. Koyeli Bhattacharya, learned advocate appeared for the respondent no.3.

Ms. Sanghamitra Nandy, learned advocate with Mr. Bidhan Biswas, learned advocate appeared for the respondent nos. 1 and 4.

Md. Sarwar Jahan, learned advocate appeared for the respondent no.5.

After considering the submissions made on behalf of the appearing parties and upon perusal of materials on record to subserve justice, the **respondent no.4 is directed to ascertain the vacancy position in the light of the document dated August 5, 2022 of the West Bengal Board of Secondary Education at page 7 to the supplementary affidavit** and if no vacancy is available there at present to accommodate the petitioner then, to ascertain the vacancy status at the schools nearest to **Kaliyaganj Parbati Sundari High School (H.S.), Uttar Dinajpur**.

If no such vacancy is available in the Uttar Dinajpur district itself to accommodate the petitioner

then, the **Commissioner of School Education** shall ascertain the vacancy position at the adjacent district/districts to accommodate the petitioner.

This entire exercise as directed above shall be carried out and completed by the **respondent no.4** or by the **Commissioner of School Education** as the case may be positively within a period of **four weeks** from the date of communication of this order and then the relevant authority shall communicate the same to the **petitioner and also the respondent no. 2 within a further period of one week** after ascertaining the necessary vacancy status.

The **respondent no.2** then shall take all consequential steps by issuing the recommendation for appointment for the petitioner and shall send such recommendation to the **respondent no.3**. This exercise shall be carried out and completed by the **respondent no.2** positively within a period of **two weeks** from the date of receiving the communication of vacancy from the respondent no.4 and/or the Commissioner of School Education Department, as the case may be.

The respondent no. 3 then shall issue the necessary **Letter of Appointment in favour of the petitioner** mentioning the name of the school where the petitioner shall be accommodated. This exercise shall be carried out by the respondent no.3 positively within a period of **two weeks** after receiving the letter of

recommendation from the respondent no.2 and shall communicate the same to the petitioner and the relevant school.

The relevant school in turn shall allow the petitioner to join the school ***forthwith but positively within a period of seven days after receiving the Letter of Appointment*** from the respondent no.3 without any fetter.

The day the petitioner shall receive the ***Letter of Appointment*** from the respondent no.3 he shall tender his resignation formally in writing at the present school, viz. ***Purgram S.C. High School*** and his cessation of employment under the said 2011 SLST from his present school shall be construed and taken to be on account and effected from the ***seventh day of receiving the Appointment Letter*** from the respondent no.3 as directed above.

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

On the above terms, this writ petition ***WPA 1050 of 2020*** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)