

02-02-2023
Item No.8
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.12367 of 1990
Smt. Alpana Kar

-vs-

The Chairman, Bishnupur Municipality, Bishnupur, Bankura
& Ors.

with

CAN No.1 of 2004
(Old CAN No.3697 of 2004)
(not in file)

Mr. Arunava Banerjee
Ms. Sudipa Mandi
Sk. Qareeb ...for the petitioner

Mr. Naren Ghosh Dastidar ...for the State

Having heard learned counsels appearing for the respective parties, I think that for proper adjudication of the writ petition, the Commissioner of School Education, Government of West Bengal should be impleaded as a party respondent to the writ petition.

Therefore, in exercise of power under Order I Rule 10(2) of the Code of Civil Procedure, 1908, the Commissioner of School Education, Government of West Bengal is impleaded as the eighth respondent to the writ petition.

Leave is granted to advocate-on-record for the petitioner to carry out the amendment here and now.

Learned counsel Mr Ghosh Dastidar represents the State, including the added respondent no.8.

As pointed out by learned counsel for the respective parties and what I find, the decision/order of the Director of School Education, West Bengal is not available in the file.

On consent of the parties, a photocopy of the decision dated November 11, 1997 issued by the Director of School Education, West Bengal be treated as a reconstructed one. Let it be placed on record.

After hearing learned counsels appearing for the parties, it is pertinent to set out the operative part of an order of a co-ordinate Bench dated March 5, 1997 which is, inter alia, as follows:-

“The Director of School Education (Primary) the added respondent no.12 is directed to consider the case of the writ petition for absorption on compassionate ground as a Primary School Teacher in the vacancy referred to in the supplementary affidavit affirmed on 8th January, 1997. The writ petition along with supplementary affidavit shall be considered as a representation by the Director of School Education (Primary). The Director of School Education (Primary), the added respondent no.12 in giving his decision shall give full opportunity to the writ petitioner of being heard. At least 48 hours prior notice shall be given to the writ petitioner to enable him, to be present at the hearing before the Director of School Education (Primary), respondent no.12.

The Director of School Education (Primary) respondent no.12 shall submit his report within a period of three weeks from date i.e. on 26.3.97.”

In compliance with the aforesaid order of this court, the Director of School Education disposed of the case of the petitioner by recording the following observations:-

“Considered the above submissions and facts and circumstances of the case and also considered the supplementary affidavit as per direction of the Hon’ble Court. In terms of Rule 5 of G.O. No.457-Edn(P) dated 12-10-87 the claim of the petitioner as a ‘Ward’ of the deceased teacher ca not be entertained. However the petitioner may represent her case with all papers to the appointing authority i.e. the District Primary School Council, Bankura. The Appointing Authority may send the case for consideration of the Govt. to this Directorate in the light of paragraph of the above noted G.O. if there is any ground of such consideration.

Thus the case is disposed of. All concerned be informed Accordingly.”

As I find, the District Primary School Council is not a party to the writ petition. However, I feel that justice would be subserved if the Commissioner of School Education is directed to decide the case of the petitioner by a reasoned decision.

Accordingly, the Commissioner of School Education, the added respondent no.8, is directed to consider and dispose of the case of the petitioner, after hearing her or her authorised representative and considering the papers to be furnished by her, by a reasoned decision, within eight weeks from the date of communication of this order. The decision once made shall be communicated to the petitioner forthwith.

With the above directions, the writ petition stands disposed of. No order as to costs.

Connected application, if any, consequently stands disposed of.

The parties shall act on the server copy of this order, duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Rabindranath Samanta, J]

