

Ct.
No.
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23.03
2023

W.P.A. 5545 of 2023

Lakshmi Mondal
-Versus-
The State of West Bengal & Ors.

Mr. Lal Ratan Mondal
Ms. Sk. Kiran

...For the Petitioner

Md. Sarwar Jahan

...For the Respondent No.3,
Mission Director,
Paschim Banga Rajya Shishu
Shiksha Mission

This writ petition has been filed by the petitioner challenging the order dated 20th February, 2023 passed by the Mission Director, Paschim Banga Rajya Shishu Shiksha Mission rejecting the representation of the petitioner seeking release of honorarium to her for discharging duties as a Sahayika in a Shishu Shiksha Kendra.

The petitioner states that she was engaged as a Sahayika in Ilishmarychar Shishu Shiksha Kendra in the month of January, 2003. As a Sahayika, she got the requisite honorarium from the concerned authority.

By virtue of Office Memorandum dated 22nd July, 2003 issued by the Panchayat and Rural Development Department, Government of West Bengal, the engagement of the petitioner was terminated as she was under qualified to be engaged as Sahayika in the said Shiksha Kendra.

After her engagement was terminated, the petitioner challenged the order of termination by preferring a writ petition being W.P. 9178 (W) of 2006 in this Court. By order dated 21st April, 2006 a learned

Single Bench disposed of the writ petition by directing the authority concerned to release the honorarium to the petitioner which was payable to her.

Later on, the petitioner passed Madhyamik Examination from the West Bengal Council of Rabindra Open Schooling on 17th March, 2009. After she passed the Madhyamik Examination, she was again engaged as Sahayika in the said Shiksha Kendra. Since no honorarium was paid to her she preferred an another writ petition, being W.P.A. 17120 of 2021 seeking release of honorarium. By order dated 15th September, 2022 a learned Single Bench disposed of the writ petition directing the Mission Director, Paschim Banga Rajya Shishu Shiksha Mission to consider the claim of the petitioner and dispose of the same by a reasoned order within a specified time.

By the impugned order dated 20th February, 2023, the Mission Director, Paschim Banga Rajya Shishu Shiksha Mission turned down the representation of the petitioner on the reasons as stated therein.

The petitioner claims that since she is discharging her duties as Sahayika in the Shiksha Kendra she is entitled to get the honorarium. Under such circumstances, the petitioner seeks direction upon the concerned respondents so that her engagement as Sahayika may be approved and honorarium which is payable to her may be released to her by the authority concerned.

Learned Counsel appearing for the petitioner

submits that after the petitioner passed Madhyamik Examination, the Managing Committee of the Shishu Shiksha Kendra engaged her anew as a Sahayika. Learned Counsel submits that the Sub-Divisional Officer, Bhagwangola-II, Murshidabad, vide letter dated 24th June, 2021 informed the District Nodal Officer that the petitioner and another candidate were engaged as Sahayikas in the Shishu Shiksha Kendra and he advocated for approval of the functioning of the Shiksha Kendra for the benefit of the local people. On such score, learned Counsel submits that since the petitioner has been discharging her duties as Sahayika she is entitled to get the honorarium and her engagement as Sahayika be approved by the authority concerned.

Per contra, learned Counsel appearing for the respondent No. 3, the Mission Director, Paschim Banga Rajya Shishu Shiksha Mission submits that since the petitioner was under qualified her engagement stood terminated in the year 2004. He submits that after termination of the engagement of the petitioner, the aforesaid Shishu Shiksha Kendra stood closed. He submits that after closure of the Shishu Shiksha Kendra the functioning of the Shiksha Kendra has not been approved by the authority concerned. Learned Counsel submits that the engagement of the petitioner as Sahayika in the Shiksha Kendra has not been made following the Government Orders which were then in force. He points out that the impugned order shows that the concerned Block Development Officer has intimated by letter dated 1st November, 2021 that the aforesaid Shishu Shiksha Kendra has now been closed. In such context, learned

Counsel submits that the writ petitioner preferred by the petitioner is liable to be dismissed.

Admittedly, the petitioner was engaged as Sahayika in the said Shiksha Kendra in January 2003. Since she did not pass Madhyamik Examination, she being under qualified, her engagement stood terminated in terms of Government Memo dated 22nd July, 2003. After the termination of her engagement she was out of engagement for the period from 2004 to 6th April, 2009 and during that period the Shishu Shiksha Kendra remained closed.

As it is evident from some agreements annexed to the writ petition, the Managing Committee of the Shiksha Kendra reengaged the petitioner as Sahayika in the Kendra after she passed Madhyamik examination. The letter dated 24th June, 2011 issued by the Block Development Officer, Bhagwangola-II, Murshidabad addressed to the District Nodal Officer shows that the Block Development Officer requested the concerned authority to take appropriate steps so that the functioning of the Shishu Shiksha Kendra may be approved by the authority concerned. But as regards approval of the engagement of the petitioner as Sahayika, I do not find any document which will show that the authority concerned forwarded the proposal of engagement of the petitioner to the concerned authority for approval and the concerned authority approved it.

Therefore, it is found that the engagement of the petitioner as a Sahayika in the Sishu Siksha Kendra was not made following the relevant Government

Orders/guidelines.

In absence of any approval from the authority concerned relating to the engagement of the petitioner as Sahayika, the agreements entered into between the Managing committee of the Shiksha Kendra and the petitioner do not appear to be legally enforceable. Again, it appears from the impugned order that the Block Development Officer, Bhagwangola-II, Murshidabad by a Memo dated 1st November, 2021 intimated the authority concerned that Ilishmarychar Shishu Shiksha Kendra, Bhagwangola-II, Murshidabad stood closed long back.

In view of the above, it appears that there is no existence of Ilishmarychar Shishu Shiksha Kendra, Bhagwangola-II, Murshidabad since long and the engagement of the petitioner as Sahayika in the Shiksha Kendra as made by its managing committee is not warranted by law.

In the aforesaid factual and legal scenario I do not find any merit in the writ petition to succeed.

Accordingly, the writ petition is dismissed on contest.

There will be no order as to costs.

All parties may act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat copy of the order, if applied for, be supplied to the appellant on priority basis on compliance of necessary formalities, on priority basis.

(*Rabindranath Samanta, J.*)