

13.07.2023
DL-70
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9298 of 2021

Swapna Kundu (Patra)
Vs.
The State of West Bengal & Ors.

Ms. Mandeep Kaur
...for the petitioner.

Mr. Rezaul Hossain
....for the State.

The petitioner's grievance is that she was not given her remuneration between the period of July 4, 2006 till 2007 when she was working as a 4th Sahayika under the Managing Committee, Purnachandrapur Netaji Sishu Siksha Kendra. The writ petitioner filed a previous writ petition, being WP 17431 (W) of 2007, challenging the inaction on the part of the Managing Committee. The petitioner was engaged for a period of one year by a resolution of the Managing Committee dated August 21, 2006.

By an order dated September 22, 2008, the Hon'ble Coordinate Bench of this Court directed the representation of the petitioner to be considered after giving opportunity of hearing. Pursuant to the said order, the Block Development Officer (BDO) & Executive Officer, Patharpratima Development Block passed a reasoned order, giving a hearing to the petitioner. The said reasoned order dated March 25, 2009 is impugned in this writ petition. From the said

reasoned order, it appears that the guidelines regarding the appointment of Sahayikas in Sishu Siksha Kendras issued by the Department of Panchayats and Rural Development, Government of West Bengal have been violated by the Managing Committee in appointment of the petitioner. No prior approval was taken for engagement of Sahayikas from the Panchayat Samity. The Managing Committee also did not publicly advertise the requirements for such engagement. After an agreement entered into between the petitioner and the Managing Committee, it was sent to the Panchayat Samity for approval. The said approval was not given. After detailed reasoning it was held by the impugned order that since the Managing Committee did not take any steps for wide publicity regarding the engagement of 4th Sahayika, the intention to give appointment to her was mala fide. Furthermore, the Savapati of the Managing Committee was not present at the meeting. Moreover, the students' strength of Sishu Siksha Kendra was only 65. Unless the strength was 120, the 4th Sahayika could not have been appointed. Therefore, the claim of the petitioner for continuing engagement along with payment of honorarium was rejected. It was also recorded in the impugned order that there was no trace of any documentary evidence/contractual paper between the petitioner

and Managing Committee available with the authorities.

Considering the submissions of the parties and the materials placed on record, this Court finds apart from the fact that there are several discrepancies in the appointment of the petitioner as a 4th Sahayika, the petitioner has approached the Court belatedly. Such inordinate delay in approaching the Court would necessarily mean that no relief can be granted to her in the present writ petition. The petitioner has sought to challenge the impugned order dated March 25, 2009 in a writ petition filed in April, 2021. Furthermore, there was no communication between the petitioner and the respondents from 2009 till 2019. In 2019, the petitioner made a representation for consideration of payment of her honorarium, which was not responded to.

In the light of the discussions above, **WPA 9298 of 2021 is dismissed** without any order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)