

28-04-2023
Item No.5
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.9648 of 2023

Biren Hansda & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Sahen Shah
Mr. Aninda Bhattacharya
Mr. K.P. Santra ...for the petitioners

Mr. Arjun Roy Mukherjee
Mr. Abdus Salam ...for the State

Md. Sarwar Jahan ...for respondents no.3 & 4

In response to an advertisement made by the managing committee of Changual Saradamoni Madhyamik Siksha Kendra (MSK) inviting applications from eligible candidates for engagement of Samprasaraks/Samprasarikas in the subjects Bengali and Life Science, the petitioners applied for such engagement. They appeared before the interview conducted by the managing committee of the concerned MSK. The petitioners were selected for engagement as Samprasaraks/Samprasarikas in the aforesaid subjects. Thereafter, the proposal of engagement was forwarded to the Kharagpur-II Panchayat Samiti for approval. After the approval was accorded by the Panchayat Samiti on August 28, 2009, the petitioners were engaged as Samprasaraks/ Samprasarikas in the aforesaid MSK.

It is the contention of the petitioners that though their engagement was duly approved by the Panchayat Samiti, but that it has not yet been approved by the District Nodal Officer.

Under the aforesaid circumstances, the petitioners by way of this writ petition, inter alia, pray for the following reliefs:-

(a) Issue a Writ in the nature of Mandamus commanding the respondents and/or their men, agents or subordinates and each one of them to issue approval of appointment in favour of the petitioners as Samprasaraks/ Samprasarikas (Volunteer Teacher) in Changual Saradmoni Madhyamik Siksha Kendra, District: Paschim Mednipur.

(b) Issue a Writ in the nature of Mandamus directing the respondents and/or their men, agents or subordinates to consider and take a reasoned decision with regard to the demand of justice dated 27.03.2023 and 28.03.2023 in favour of the petitioners.”

As I find from the documents on record, the petitioners were selected as Samprasaraks/Samprasarikas by the managing committee of the MSK on August 20, 2009. After proposal of engagement was forwarded by the managing committee to the Panchayat Samiti, the Panchayat Samiti by adopting a resolution dated August 20, 2009 approved the engagement. But the petitioners complain that despite approval of the concerned Panchayat Samiti who is the authority concerned, no approval has yet been made by the District Nodal Officer.

The Government Order dated 1st January 2010 issued by the Panchayats and Rural Development Department, Government of West Bengal enjoins that engagement of Samprasaraks/Samprasarikas in any vacancy of Madhyamik Siksha Kendra is stopped with effect from January 1, 2010 until further orders. Panchayat Samitis will not approve any panel for engagement of Samprasaraks/Samprasarikas with effect from 1st January 2010. However, the panel already approved by the Panchayat Samiti till 31st December 2009 will not come under the purview of this order.

As stated above, the managing committee selected

the petitioners by a resolution dated August 20, 2009 and the Panchayat Samiti approved the proposal of engagement on August 28, 2009. Therefore the selection of the managing committee and the approval of the engagement by the Panchayat Samiti were done in accordance with the Government Order dated 1st January 2010. That being so, there cannot be any impediment for any authority to grant final approval of the engagement of the petitioners.

Be that as it may, having regard to the facts and circumstances of the case, I feel that the District Nodal Officer, the fifth respondent herein, may be directed to decide the issue of the petitioners bearing in mind the relevant Government Order dated 1st January 2010.

Having heard learned counsels for the contesting parties and on consideration of the documents on record, I feel that the writ petition may be disposed of by passing the following order.

The petitioners are at liberty to make a comprehensive representation to the fifth respondent seeking the reliefs as made in the writ petition within ten days from date.

After receiving the representation if made, the fifth respondent shall consider and dispose of the same by a reasoned decision, after giving opportunity of hearing to the petitioners or their authorised representatives and any other interested parties and in the light of the Government Order dated 1st January 2010, within four weeks from the date of communication of this order. The reasoned decision once given shall be communicated to the petitioners within one week.

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

Since no affidavit is called for, the averments made in the writ petition shall be deemed not to have been admitted by the respondents.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy, if applied for, shall be made available by the parties.

[Rabindranath Samanta, J.]