

27.07.2023
(D/L-67)
Ct.-18
(Susanta)

W.P.A. 10594 of 2023
Surinder Kapoor
-Vs-
The State of West Bengal & Ors.

Mr. Sanjay Kumar Baid, Mr. Chhandak Dutta,	 For the Petitioner.
Mr. Sagnik Chatterjee,	 For the State.
Mr. Tanoy Chakraborty, Ms. Twinkle Santra,	 For the Respondent No. 9 & 10.

The report as directed by the order dated May 10, 2023 filed on behalf of the Commissioner of School Education, Government of West Bengal, the respondent no. 7 herein, and exception thereto filed on behalf of the petitioner are taken-on-record.

The petitioner seeking approval of her appointment as the Headmistress of the Central Model School (H.S), Kolkata had filed a writ petition being WPO 2482 of 2022.

The said writ petition was disposed of by the order dated September 06, 2022 directing the Commissioner of School Education Government of West Bengal the respondent no. 7 herein to consider and dispose of the representation of the petitioner praying such approval.

The respondent no.7 by the order impugned bearing Memo No.1C/765/LS/2022 dated January 31, 2023 has rejected the prayer of the petitioner holding, *inter alia*, that the School Authority neither made any advertisement for the post of Headmaster/Headmistress from eligible candidates nor followed any acceptable selection procedure in order to satisfy the provisions of

equality of opportunity as enshrined in Article 16 of the Constitution of India, either in terms of Notification No.79-Es/S dated 03/02/2016 or memo no. 1691-SE (S) dated 20/09/2001 or memo no. 1267-GA dated 26/11/1998.

Mr. Baid, learned counsel for the petitioner submits that in their terms, neither of the notifications relied on by the respondent no. 7 to reject the prayer of the petitioner, apply to the subject school.

Mr. Chatterjee, learned advocate for the State submits that in the absence of any specific guideline/rule, the Directorate's memo bearing no. 1267/1(21)-G.A dated November 26, 1998 shall operate the field and the respondent no. 7 has rightly relied on the said memo to reject the prayer of the petitioner.

Having heard the learned counsel for the parties and on perusal of the records, it appears that the aforementioned memo dated November 26, 1998 is applicable to the Secondary Institutions running on Special Rules. The subject school is a Higher Secondary School and there is nothing on record to suggest that it is running on Special Rules, therefore, the said memo/guidelines in its term, does not apply to the subject school.

The report of the respondent no. 7 also suggests that neither of the notifications relied on by the respondent no. 7 to reject the prayer of the petitioner is applicable in respect of the subject school.

The order impugned, for the aforesaid reason, is not sustainable and is accordingly set aside.

The District Inspector of Schools (S.E), Kolkata, the respondent no. 8 herein is directed to accord approval of the appointment of the petitioner as a Headmistress of the Central Model School (H.S), Circus Avenue, Kolkata-700017, within a week from the date of communication of this order.

Mr. Baid, learned advocate for the petitioner submits that though the petitioner in the present writ petition has prayed for some consequential reliefs but to avoid unnecessary delay she is not pressing the said reliefs for the time being but liberty may be granted to her to renew the said prayers by filing separate writ petition.

Considering the aforesaid prayer, the petitioner is granted liberty to pray for relief/reliefs to which she is entitled to under the law as a consequence of being approved as the Headmistress of the said school.

W.P.A. 10594 of 2023 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)