

Item-
117. 31-08-2023

sg Ct. 8

MAT 840 of 2023
CAN 1 of 2023

Lakshmi Mondal
Versus
The State of West Bengal & Ors.

Mr. Lal Ratan Mondal, Adv.
Mr. Probal Sarkar, Adv.
Sk. Kiran, Adv.

...for the appellant

Md. Sarwar Jahan, Adv.
Ms. Mousumi Mitra, Adv.
Mr. Asif Mehdi, Adv.

...for the respondent no.3

Mr. Biswabrata Basu Mallick, Adv.
..for the State

1. The appeal is arising out of an dated 23rd March, 2023 in connection with a writ petition filed by the petitioner challenging the order dated 20th February, 2023 passed by Mission Director, Paschim Banga Rajya Shishu Shikha Mission rejecting the representation of the petitioner seeking release of honorarium of her for discharging duties as a Sahayika in a Shishu Shiksha Kendra.
2. We have the read the order dated 20th February, 2023 passed by the Paschim Banga Rajya Shishu Shikha Mission an the order under challenge. It appears from the record that her initial appointment was made in contravention of the relevant Rules. She was not qualified when she was appointed as Sahayika. However, she improved her qualification and the Managing Committee of the Sishu Shikha Kendra re-engaged the petitioner as Sahayika in the Kendra after she passed Madhyamik Examination.
3. By a letter dated 24th June, 2011, the Block Development

Officer, Bhagwangola-II, Murshidabad requested the concerned authority to take appropriate steps as regards approval of the engagement of the petitioner as Sahayika. No document has been disclosed which would show that the authority concerned forwarded the proposal for engagement of the petitioner to the concerned authority for approval and the concerned authority approved it.

4. Hence, it can be concluded that the engagement of the petitioner as Sahayika in the Shishu Shiksha Kendra was not made following relevant Government orders/guidelines. Moreover, 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 was closed long back. The said Ilishmarychar Shishu Shiksha Kendra has no existence as the entire village is submerged under the river Padma. Moreover, the facts revealed that when she was engaged as Sahayika in 2009, the Shishu Shiksha Kendra was passed away and closed and there is no proof that the engagement as claimed by the petitioner was done following the existence norms of P&RD Department for engagement of Sahayika.
5. It is submitted on behalf of the respondent no.3 that in the last several years, the Government has not taken any steps for engagement of Sahayika in Shishu Shiksha Kendra and Samprasharak in MSK.
6. The State Government is duty bound to implement the provisions of Right to Education Act, 2009 and it is just and

proper to take a decision with regard to their engagement whenever it is necessary to implement the provisions of the Right to Education Act.

7. In the event any fresh appointments are made in the District Murshidabad, the case of the petitioner may be considered subject to fulfillment of all the required criteria.
8. This order shall be immediately forwarded to the Principal Secretary, Education Department and the Principal Secretary of School Education Department for information and for ensuring implementation of the provisions of Right to Education Act, 2009.
9. The appeal and the connected application stand disposed of. However, there shall be no order as to costs.
10. We request Mr. Biswabrata Basu Mallick, learned Additional Government Pleader to look into this matter and communicate this order to the Principal Secretary, Education Department.
11. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)