

Court No. 22

19.9.2023

(Item No. 19)

(AB)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 14121 of 2017

Dipanwita Biswas

VS

The State of West Bengal & Ors.

Mr. Kashiswar Ghosal

.... For the petitioner

Mr. Bhaskar Prasad Vaisya

Mr. Niloy Baran Mandal

... for the State

Mr. Anand Keshari

Mr. Joy Shankar Mukherjee

.... For respondent Nos. 4 & 5

The petitioner claimed to be an **Assistant Teacher** at **Asansol Bengali Gurls' Day High School (H.S.), District – Paschim Burdwan**. The school has issued a show cause notice at **page 43** to the writ petition to which the petitioner has replied to by its letter dated **September 17, 2016**, at **page 45** to the writ petition. The petitioner has also made a representation before the school authority dated **September 3, 2016** at **page 40** to the writ petition claiming regularization of an alleged unauthorized leave on the ground of Child Care Leave. The said representation has also not received the attention of the school authority.

Mr. Kashiswar Ghosal, learned counsel appears for the petitioner submits that, the school authority may be directed to consider the prayer of the writ petitioner by passing a reasoned order.

Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader appears for respondent Nos. 1 to 3.

Mr. Anand Keshri, learned advocate appears for respondent Nos. 4 and 5.

Considering the submissions made on behalf of the parties and considering the materials on record, to sub-serve justice the respondent No. 5 upon issuing a prior hearing notice of at least seven days to the petitioner shall decide both the issues after affording an opportunity of hearing to the petitioner by passing a reasoned order. While conducting the hearing the school authority and the petitioner shall proceed on the basis of the said show cause notice at **page 43** to the writ petition and the reply thereto submitted by the petitioner at **page 45** to the writ petition and also the representation of the petitioner dated **September 3, 2016** at **page 40** to the writ petition.

The entire exercise as directed above shall be carried out and completed by the respondent No. 5 positively within a period of **six weeks** from the date of communication of this order. The respondent No. 5 then shall communicate its reasoned order to the petitioner and the respondent No. 3 and any other authority or authorities concerned within a further period of **one week** from the date of the reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner or merits of the submissions made on behalf of the school authority in any manner. The petitioner shall be at liberty to urge whatever points she wishes to urge by relying upon whatever documents and records she wishes to rely upon.

It is made clear that, this order shall not create any equity or right in favour of the petitioner if the petitioner is not eligible to receive her claim strictly in accordance with law.

In the event, the reasoned decision goes in favour of the petitioner, the school authority and the respondent No. 3 shall take all necessary and consequential steps positively within a period of **two weeks** from the date of communication of this order by the respondent No. 3.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition being **WPA 14121 of 2017** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)