

27.09.2023  
SL No.22  
Court No.8  
(gc)

**FMA 746 of 2023  
CAN 1 of 2023  
CAN 2 of 2023**

**State Project Director,  
Paschim Banga Sarva Shiksha Mission  
Vs.  
Soma Bairagya (Chakraborty) & Ors.**

Mr. Arjun Roy Mukherjee,  
Ms. Saheli Mukherjee,  
... For the Appellant.

Mr. Subir Bhattacharya,  
Mr. Guddu Singh,  
...For the Writ Petitioner/  
Respondent.

Mr. Rezaul Hossain,  
... For the State.

**Re: CAN 1 of 2023**

1. In view of the report filed by the Additional Stamp Reporter indicating that the appeal is within time, the application for condonation of delay is disposed of by recording that the appeal is in time.

**Re: FMA 746 of 2023  
CAN 2 of 2023**

2. The appellant is aggrieved by the order passed by the learned Single Judge in a writ petition filed for appointment of the petitioner as a para-teacher in subject “Bengali” in Akabpur Junior High School. The short point on which the appeal is

argued is that by reason of memorandum dated 27<sup>th</sup> March, 2010 issued by the Project Director, Paschim Banga Sarva Shiksha Mission, the District Project Officers cannot appoint any further para-teachers in Primary and Upper Primary Schools. If any para-teacher is previously engaged in any school left the job or had already left the job or his position fell vacant due to any other reason, the vacant position should not be filled by engagement of para-teachers and the position should be left vacant till it was filled up through regular recruited teachers.

3. The learned Single Judge has refused to accept the said submission, in our view, rightly, having regard to the facts and circumstances of the case. The petitioner was running from pillar to post to seek her appointment as an additional para-teacher in the school on contractual basis. It appears that due to infighting between the Headmaster and the Managing Committee, the name of the petitioner was not forwarded by the Headmaster of the School by a letter dated 20<sup>th</sup> September, 2013.

4. It is evident from the record that the writ petitioner secures 65% marks in Madhyamik Examination, 64.3% in Higher Secondary Examination and 47.87% marks in Graduation secured the highest marks, i.e., 17.717 marks amongst the 21 candidates and she should have been placed at the top of the panel as she secured the highest marks. There is no dispute with regard to this fact. If she had secured the said mark, then she was entitled for being considered for engagement as an additional para-teacher on contractual basis in the said school. Admittedly, there was no embargo at the relevant point of time to appoint her to the said post. The petitioner cannot be made to suffer because of the dispute between the Managing Committee, Headmaster and the Authorities concerned who were duty bound to take immediate steps for appointment of a para-teacher since by reason of delay in such appointment the school had suffered.
5. On the basis of the aforesaid considerations, we are of the view that the learned Single Judge was justified in

directing the authorities concerned to engage the petitioner who was undoubtedly the deserving candidate as para-teacher in the subject Bengali in the said School within a period of four weeks from date of the impugned order.

6. The order of the learned Single Judge is confirmed. However, the time to comply with the order of the learned Single Judge is extended by four weeks from this date.
7. Accordingly, the appeal and the application are disposed of.
8. However, there shall be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**