

Ml- 06.02.2023
36 Ct.15
rkd

W.P.A. 16200 of 2015

Goutam Mahata

-vs-

The State of West Bengal & Ors.

Mr. P. C. Ghosh,
Mr. Sukumar Sarkar

....for the petitioner.

Mr. Biswajit De

....for the State.

The present writ petition is taken out, inter alia, praying for modification of the prior permission issued by the District Inspector of Schools (S.E.), Paschim Medinipur, vide memo dated 6th May, 2015 in connection with two posts, one post was reserved for Clerk and another post was reserved for Group-D in Pandit Raghunath Murmu Vidyapith (High School), District- Paschim Midnapur (hereinafter referred to as "said school")

It has been submitted that Group-D post which was reserved for SC candidate has already been filled up. However, the post of Clerk which was also reserved for SC candidate is still lying vacant. Petitioner being one of the aspiring candidates to be appointed in the post of Clerk in Government aided High School has prayed for reconsideration of the issue by the concerned District Inspector of Schools relating to reserving

the said post of Clerk for SC candidate.

State respondents are represented by Mr. De, learned advocate who has opposed the prayer made in this writ petition in view of promulgation of West Bengal School Service Commission (Selection of Persons for Appointment to the Post of Non-Teaching Staff), Rules, 2009 which was notified on 9th July, 2009. It has further been submitted that in view of said rules of 2009 prior permission issued by the concerned District Inspector of Schools vide memo dated 6th May, 2015 addressed to the Secretary of the said school authority cannot survive.

This Court has considered the rival submissions of the parties and is at a loss as to how the concerned District Inspector of Schools issued prior permission under memo dated 6th May, 2015 permitting the said school authority to fill up the posts of Clerk and Group-D. In terms of Rule 8 of the West Bengal School Service Commission (Selection of Persons for Appointment to the Post of Non-Teaching Staff), Rules, 2009 concerned District Inspector of Schools is required to prepare a report regarding the number of vacancies in approved posts to be filled up on the basis of direct recruitment, which exists or is

expected to occur within specified time and shall furnish the same to the concerned Regional Commission at least 15 days before the date of publication of advertisement.

In view of such provision as contained in Rule 8 of the said Rules of 2009 perhaps it was not within the domain of the concerned District Inspector of Schools to issue prior permission dated 6th May, 2015 to the said school authority permitting them to fill up the post.

However, in view of the case made out by the petitioner to modify the decision of the concerned District Inspector of Schools whereby the post of Clerk has been reserved for SC candidate, this Court disposes of the writ petition with a direction upon the District Inspector of Schools (S.E.), Paschim Medinipur being the respondent no.3 to forward the said vacancy of Clerk in the said school to the concerned authority of the West Bengal Central School Service Commission if the same has not been forwarded and if the post has not been filled up till date and before forwarding the said vacancy to reconsider the decision taken by the said respondent no.3 as contained in prior permission dated 6th May, 2015 to reserve the said post for SC candidate and to

take steps accordingly.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)