

Court No. 22

25.9.2023

(Item No. ML-
174)

(AB)

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

WPA 17507 of 2019

Binod Dey

v.

The State of West Bengal & Ors.

Mr. Dilip Kumar Maiti

..... for the petitioner

Mr. Pinaki Dhole

Ms. Indrani Nandi

..... for the State

Initially the petitioner has joined as an **Assistant Teacher** at one Madrasah pursuant to the recommendation of the Madrasah Commission dated **March 24, 2010**. The petitioner then qualified the subsequent **12th RLST 2011** and joined the present School being **Hatia High School (H.S.), District – Uttar Dinajpur**.

Mr. Dilip Kumar Maiti, learned counsel appears for the petitioner referrers to **Annexure P-7** at **page 33** to the writ petition submits that, the petitioner made a representation dated **August 12, 2019** before the respondent No. 2, the same has not yet been considered.

Mr. Pinaki Dhole, learned State counsel appears for respondent Nos. 1 to 3, 10 and 11 submits that, in **paragraph 7** read with **Annexure P-5** to the writ petition at **page 29** thereto it would be evident that, the petitioner has resigned and thereafter joined the subsequent school.

After considering the submissions made on behalf of the parties and upon perusal of the materials on records, to sub-serve justice, the respondent No. 2 is directed to issue a prior hearing notice of at least seven days to the petitioner and after giving him an opportunity of hearing to dispose of the representation dated **August 12, 2019** by passing a reasoned order.

The entire exercise as directed above shall be carried out and completed by the respondent No. 2 positively within a period of **six weeks** from the date of communication of this order and the respondent No. 2 then shall communicate its order to the petitioner positively within a further period of **two weeks** 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 in any manner whatsoever and the petitioner shall be at liberty to urge his case on the basis of the representation dated **August 12, 2019, Annexure P-7** at **page 33** to the writ petition and not beyond that by relying upon whatever records and papers he wishes to rely upon before the respondent No. 2.

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 his claim in terms of his representation dated **August 12, 2019** strictly in accordance with law.

The respondent No. 2 shall be free to decide the case by applying his independent mind strictly in accordance with law and without being influenced by observation, if any, made by this Court.

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 17507 of 2019** 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.)