

Court No. 22

22.9.2023

(Item No. ML-
126)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 20209 of 2017

Umapada Bera

v.

The State of West Bengal & Ors.

Mr. Mrinmoy BHattacharyya

Mr. N. C. Dey

..... for the petitioner

Mr. B. P. Vaisya

Mr. Gourav Das

..... for the State

The petitioner is at present an Assistant Teacher for the subject **“English”** at one **Khila Gopimohan Siksha Sadan, District Howrah**. The petitioner claimed Post Graduate scale.

Referring to **Annexure P-13** and **Annexure P-14** at **pages 32 and 33** to the writ petition Mr. Mrinmoy Bhattacharyya, learned advocate for the petitioner submits that, the impugned order dated **May 26, 2017** passed by the respondent No. 4 is cryptic and totally devoid of any reason by which the claim of the petitioner was rejected.

Mr. Gourav Das, learned State counsel appears for the respondent Nos. 1 to 4.

The office report dated January 11, 2018 suggests that, despite there being direction dated September 18, 2017 no affidavit-in-opposition was filed.

Considering the issue involved in the writ petition and long pendency thereof this Court is of the view that, no fruitful purpose would be served by keeping the writ petition pending any further, hence, this order is passed.

Considering the submissions made on behalf of the parties and upon perusal of the materials on record this Court upon scrutiny of the impugned order **dated May 26, 2017** is convinced that, the same is cryptic in deed and the finding made therein rejecting the claim of the petitioner is devoid of any reason save and except the mentioning of the **Government order** dated **November 27, 2017**. The impugned order does not spell about as to whether and how the said **Government Order dated November 27, 2007** is applicable or not and even if it is applicable then what are the disqualifications of the petitioner so that his claim was rejected.

Be that as it may, it is the well settled principle of law that, authority while passing an order deciding the right of a party, it must ascribe sufficient reasons in support of its decision and the order must be such that no higher authority shall make any further endeavour to ascertain the decision making process of the authority who passes the order.

For those reasons this Court is of the considered view that, the impugned order dated **May 26, 2017** cannot sustain in law and accordingly the

impugned order being **Annexure P-14** at **page 33** stands **set aside and quashed**.

It is submitted on behalf of the learned State counsel that, the respondent No. 3 shall be the appropriate authority to decide the issue.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record the respondent No. 4 is directed to transmit the records pertaining to this case before the respondent No. 3 forthwith and positively within a period of **ten days** from the date of communication of this order.

After receiving the records from the respondent No. 4, the respondent No. 3 then shall issue a prior hearing notice of at least seven days upon the petitioner and the respondent Nos. 5 and 6 and then after giving them an opportunity of hearing shall decide the issue by passing a detailed reasoned order.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 3 positively within a period of **six weeks** from the date of receiving the records from the office of the respondent No. 4. The respondent No. 3 then shall communicate its reasoned order to the petitioner and the respondent Nos. 5 and 6 positively within a further period of two weeks from the date of the said reasoned order to be passed.

In the event, the reasoned order goes in favour of the petitioner then the respondent No. 3 shall give effect to the same positively within a period of **four weeks** from the date of communication of the said reasoned order to the petitioner.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner and the respondent Nos. 5 and 6 shall be at liberty to urge whatever points they wish to urge by relying upon whatever documents, records and judgments they wish to rely upon before the respondent No. 3.

As prayed for by Mr. Mrinmoy Bhattacharyya, learned counsel for the petitioner, the petitioner shall be at liberty to participate in the hearing before the respondent No. 3 through its duly authorized representative.

On the above terms, this writ petition being **WPA 20209 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.)