

23 26.6.2023
Sc Ct. no.22

WPA 20231 OF 2017

Malabika Barman

Vs.

The State of West Bengal & Ors.

Mr. Sakti Pada Jana
Mr. Subhajyoti Das.

....For the Petitioner

Mr. Supriyo Chattopadhyay
Mr. Sabyasachi Mondal.

....For the State

This is a hearing matter.

The office report dated **February 8, 2018** showed that despite direction made by a coordinate Bench on **August 17, 2017**, no affidavit-in-opposition had been filed.

Mr. Sabyasachi Mondal, learned advocate appeared for the respondent nos. 1, 2 and 3 today.

Mr. Sakti Pada Jana, learned counsel appearing for the petitioner contended that, the petitioner is an **Honours Graduate Assistant Teacher at present working at Rudrapur Siksha Sadan (H.S.), District – Howrah**. The petitioner claimed higher pay scale.

Referring to **Annexure-P7 at page 35** to the writ petition learned counsel for the petitioner submitted that, the claim of the petitioner was rejected without assigning any reason and without granting her an opportunity of hearing.

Mr. Jana, leaned counsel for the petitioner submitted that the claim of the petitioner is not barred in

terms of the provisions laid down under the **West Bengal Schools (Control of Expenditure) Act, 2005** (for short **2005 Act**) specifically the provisions laid down under **Sub-Section 3 to Section 14 of the 2005 Act**.

Considering the submissions made on behalf of the parties and considering the materials on record and on a scrutiny of the said impugned order dated **December 24, 2014, Annexure-P7 at page 35 to the writ petition**, it appeared to this Court that, the said impugned order was a cryptic one and merely mentioned the **2005 Act** as a ground for rejection of the claim of the petitioner and no reason was ascribed. The respondent no.3 while passing the said impugned order had not also made his finding as to for what reason and on what ground the said **2005 Act** shall create a bar to allow the claim of the petitioner.

For all those reasons as above, the said impugned order dated **December 24, 2014, Annexure-P7 at page 35 to the writ petition stands set aside and quashed**.

To subserve justice, **the respondent no.3 shall revisit the issue after giving at least a seven days' hearing notice to the petitioner and the respondent no.4 and after giving them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law**.

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 communication of this order and the respondent no.3 shall then communicate its reasoned order to the petitioner and the respondent no.4 within a further period of two weeks from the date of the said 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 and the petitioner and the respondent no.4 shall be at liberty to urge whatever point they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3 but ***the issue shall not travel beyond the scope of the case made out in the writ petition.***

It is made clear that, this order shall not create and 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, then the respondent no.3 and the respondent no.4 and/or any other relevant authority or authorities shall give effect to the said reasoned order positively within a period of ***three weeks from the date of communication of the said reasoned order to them.***

On the above terms this writ petition ***WPA 20231 of 2017*** stands disposed of without any order as to costs.

Photostat certified copy of this order, if applied for,
be furnished expeditiously.

(Aniruddha Roy, J.)