

08-02-2023
Item No.8
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.20940 of 2017
Ms Asia Khatun
-vs-
The State of West Bengal & Ors.

Mr. Jagabandhu Mondal
Mr. Nirmalendu Berar
Ms. Kalpana Khan Mondal ...for the petitioner

Mr. Jahar Lal De
Mr. Shamim ul Bari ...for the State

Md. Sarwar Jahan
Mr. Asit Mehdi ...for respondent no.9

Having heard learned counsels appearing for the respective parties, I think that for proper adjudication of the writ petition, the Mission Director, Paschim Banga Rajya Sishu Siksha Mission should be impleaded as a party respondent to the writ petition.

Accordingly, in exercise of power under Order I Rule 10(2) of the Code of Civil Procedure, 1908, the Mission Director, Paschim Banga Rajya Sishu Siksha Mission is added as the ninth respondent to the writ petition.

Leave is granted to learned advocate-on-record for the petitioner to carry out the amendment here and now.

Mr Jahan, learned counsel appears for the ninth respondent and submits that a copy of the writ petition has already been received by him.

It is stated by the petitioner that she is duly

qualified in Urdu language and as such she has been entrusted with the job of a Sishu Siksha Sahayika in Dharimba Dakshin Sishu Siksha Kendra, Paschim Medinipur in 2011 and since then she has been rendering the aforesaid job. The petitioner made an appeal to the authority concerned to make her job permanent and release the honorarium she is entitled, but to no effect.

Getting no relief from the authority concerned, the petitioner moved a writ petition being WP No.24147(W) of 2012. By an order of this court dated January 14, 2013, the writ petition was disposed of directing the district Sarva Siksha Mission to consider the case of the petitioner. The order dated January 14, 2013 was communicated to the district Nodal Officer, Sishu Siksha Kendra & Madhyamik Siksha Kendra Cell, Paschim Medinipur for compliance, but the concerned authority could not extend any benefit to the petitioner since she claim to be a Para Teacher instead of a Sahayika in the writ petition.

The petitioner submits that as there was a mistake in the writ petition as to her status to be a Para Teacher instead of a Sahayika she by filing a petition being CAN 6467 of 2014 sought modification of the order dated January 14, 2013 by incorporating therein her status as Sahayika. But, the prayer made by her was turned down by a co-ordinate Single Bench by an order dated July 11, 2017.

The petitioner asserts that she was entrusted with the job of Sahayika in the aforesaid Sishu Siksha Kendra and has been rendering her service as Sahayika since 2011. Under such circumstances the petitioner by preferring this writ petition seeks a direction upon the

authority concerned so that the engagement of her may be made permanent and honorarium may be released to her.

Learned counsel appearing for the petitioner by referring to a number of communications submits that since there was no Sahayika in the aforesaid Sishu Siksha Kendra, the petitioner has been rendering her service as Sahayika at the request of the members of the gram panchayat, guardians of the students and other villagers. It is submitted that since the petitioner admittedly has been rendering service, her substantial service may be taken into consideration, her engagement may be made permanent and the honorarium be paid to her.

Learned counsel appearing for the answering added respondent, on the other hand, submits that after the Government Order vide memo dated April 23, 2010 was issued by the Department of Panchayats and Rural Development, Government of West Bengal was published, the procedure of engagement of the Sahayak/Sahayika and Samprasarak/Samprasarika has been prescribed therein. He also submits that as per the aforesaid Government Order, the Sub-Divisional Officer is now the authority to engage a Sahayika on the recommendation of a committee consisting of such members as spelt therein.

The memorandum dated April 23, 2010, inter alia, enjoins that engagement of Sahayak/Sahayika will be made by the Sub-Divisional Officer on the recommendation made by the recruitment committee consisting of Sub-Divisional Officer and other members as stated in the Government Order. By the last order dated January 25, 2023 the petitioner was given leave to file necessary documents relating to the engagement of the petitioner as Sahayika in the Siksha Kendra. In response

thereto, photocopies of some documents are filed therein. But none of the documents as filed on behalf of the petitioner shows that she was ever engaged as a Sahayika lawfully in terms of the Government Order dated April 23, 2010.

Entrusting with the job of Sahayika to the petitioner at the request of the members of the concerned gram panchayat, the guardians of the students and the villagers does not tantamount to engagement as required to be done in terms of the aforesaid memo dated April 23, 2010. Since the petitioner has not been lawfully engaged as a Sahyaika, her prayer for permanent job or permanent engagement and release of honorarium to her does not deserve to be allowed.

For the aforesaid reasons, the writ petition having no merit should be dismissed. Accordingly, the writ petition is dismissed. No order as to costs.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Rabindranath Samanta, J.]

