

01.02.2023
Item no.2.
Court No.6.
AB

**M.A.T. 1955 of 2022
With
IA CAN 1 of 2022**

**Kuheli Das
Vs
The State of West Bengal & Others**

Mr. Prahlad Chandra Ghosh,
Mr. Subir Hazrafor the Appellant.

Mr. Lalit Mohan Mahata,
Mr. Rudranil Defor the State.

Md. Sarwar Jahan,
Ms. Mousumi Mitra,
Mr. Asif Mehdifor the Respondent No.2.

By consent of the parties, the appeal and the application are taken up for hearing together.

Affidavit of Service filed in Court today, be kept with the records.

This appeal is directed against a judgment and order dated November 10, 2022, whereby the appellant's writ petition being WPA No.17775 of 2013 was dismissed.

The appellant was engaged as the 4th Sahayika in Nekrahar Sishu Siksha Kendra (in short "the said SSK"). The initial engagement of the appellant was from March 17, 2008 to April, 2008. Subsequently, the

engagement was renewed from May, 2008 to April, 2009.

Alleging that no honorarium had been paid to the appellant and that she was entitled to renewal of her engagement as Sahayika, the appellant moved W.P. No.6706 (W) of 2009 before this Court. By an order dated August 18, 2009, a learned Single Judge of this Court disposed of the writ petition by directing the concerned Block Development Officer to examine the appellant's claim and take a decision with regard to non-payment of her admissible dues. The honorarium was subsequently paid to the appellant.

Since the appellant's application for renewal of her engagement was kept pending, she moved another writ petition being W.P. No.6865 (W) of 2010. That writ petition was disposed of by a learned Single Judge by an order dated August 16, 2012, by directing the concerned Block Development Officer to consider her case.

By an order dated November 30, 2012, the concerned Block Development Officer rejected the appellant's request for renewal of her engagement. This order was challenged in the present round of litigation before the learned Single Judge.

The learned Single Judge recorded the submissions of both the parties. Learned Judge noted that there was a policy decision of the Government to

the effect that a 4th Sahayika for an SSK is not to be engaged unless there are at least 120 students in the SSK. The learned Judge observed that such policy matters will not be normally interfered with by the Writ Court. Having considered the Block Development Officer's order rejecting the appellant's prayer for renewal of her engagement, the learned Judge came to the conclusion that there was no glaring infirmity in the order which required interference. Accordingly, the writ petition was dismissed. Hence, this appeal.

Appearing in support of the appeal, Mr. Ghosh, learned Senior Counsel submits that presently, there are 72 students in the SSK. The 2nd and 3rd Sahayikas have superannuated. There is only one Sahayika in the said SSK. The appellant has been running from pillar to post since 2009 for renewal of her engagement. Her case should be considered by the Competent Authority.

We do not find any infirmity in the order under appeal. Hence, we are not inclined to interfere.

However, there may not be any harm in asking the Competent Authority, who, in this case, we are told, is the District Nodal Officer, Sishu Siksha Cell, Malda, to consider the appellant's case in accordance with law and the applicable Rules and Regulations.

Accordingly, we grant liberty to the appellant to make a comprehensive representation to the District

Nodal Officer, Sishu Siksha Cell, Malda, within a fortnight from date. If such representation is made within the time period indicated above, the District Nodal Officer shall dispose of the same by a reasoned order in accordance with the applicable Rules and Regulations, within a period of eight weeks from the date of receipt of the application, after affording an opportunity of hearing to the appellant or her authorized representative. The decision shall be communicated to the appellant within a week from the date of the decision.

We have not gone into the merits of the case of the appellant. The District Nodal Officer shall take an independent informed decision in the matter.

Since we have not called for affidavits, the allegations in the application are deemed not to be admitted by the respondents.

M.A.T. No.1955 of 2022 is, accordingly, disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)

