

25 03.01.2023
Sc Ct. no.22

WPA 27640 OF 2022

Syed Abdus Shovan

Vs.

The State of West Bengal & Ors.

Mr. Golam Mastafa
Mr. Subir Sabud.

....For the Petitioner

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee.

.....For the State

Affidavit-of-service, filed in Court, is taken on record.

This is an unaided madrasah. The petitioner claimed to be a teacher for the subject “**English (Language Group)**” at **Kanakpur Junior High Madrasah** presently **Kanakpur Madrasah Shiksha Kendra**. The petitioner claimed to have been working since 2008 and teaching “**English (Language Group)**” at the relevant institution. The petitioner claimed his approval as an assistant teacher. He contended that on the very day when an inspection was held by the appropriate jurisdictional District Level Inspection Team, the petitioner was on leave and as such, his name could not be incorporated in the **First District Level Inspection Team Report** (for short **DLIT report**). The petitioner claimed that since the name of the petitioner did not feature in the relevant DLIT report, the petitioner

was not approved as an assistant teacher of the institution.

Despite service none appears for the State.

Mr. Arindam Chattopadhyay, learned counsel who normally appears for the State in such type of matters is present in Court, he is requested to hold the brief and appear in this matter on behalf of the State to assist this Court. His appearance is directed to be regularised by the office of the Government Pleader forthwith. A copy of this writ petition has been served upon him.

The other respondents are not represented.

Considering the submissions made on behalf of the writ petitioner and upon perusal of the materials on record it appears that certain factual matrix need to be gone into while taking a decision on the claim of the petitioner as claimed in the writ petition. Such fact finding inquiry would not be the job of the writ Court.

In view of the above, the respondent no.4 is directed to consider the representation dated **March 16, 2021** submitted by the petitioner, **Annexure-P4** to the writ petition upon giving a prior hearing notice of at least seven days to the petitioner and the respondent nos. 5 and 6 and then after giving them an opportunity of hearing shall decide the issue with a reasoned order/decision.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.4

positively within a period of six weeks from the date of communication of this order. The respondent no.4 then shall communicate its reasoned decision/order to the petitioner and the respondent no.5 within a further period of two weeks from the date of the said reasoned decision/order to be passed.

It is made clear that this Court has not gone into the merits of the claim of the writ petitioner in any manner.

The petitioner will be at liberty to urge whatever points he wishes to urge and shall rely upon whatever records and documents he wishes to rely upon before the respondent no.4.

The respondent nos.5 and 6 shall cooperate with the respondent no.4 in all possible manner and if necessary shall produce all the relevant records and documents in this regard before the respondent no.4.

In the event the decision of the respondent no.4 goes in favour of the petitioner then the respondent no.4 shall take all necessary and consequential steps to give effect to the said reasoned order positively within a further period of four weeks from the date of communication of the said order to the petitioner and the respondent nos. 5 and 6.

It is further made clear that this order shall not create any equity in favour of the petitioner if the

petitioner is not eligible to receive his claim as made in the writ petition strictly in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

On the above terms this writ petition, **WPA 27640 of 2022** stands disposed of, without any order as to costs.

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

(Aniruddha Roy, J.)