

WPA 28742 OF 2016

Soumen Kumar Ghosh & Anr.

Vs.

The State of West Bengal & Ors.

Md. Manuwasr Ali
Ms. Moumita Karmakar.

...For the Petitioners

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee.

...For the State

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

This is a hearing matter.

The office report dated March 23, 2018 showed that, despite direction being made by a coordinate Bench on March 23, 2017, no affidavit-in-opposition was filed.

The petitioners claimed approval of their appointment. The petitioners also claimed that, they had been working as an **Assistant Teacher since 1995 at Shiddheswari Jr. High School, District – Murshidabad. The Appointment Letters dated April 28, 1995, at page 22 to the writ petition, were issued in favour of the petitioners** and the petitioners had joined immediately.

In the first round of writ petition a coordinate Bench by its order dated **April 4, 2016 at page 31** to the writ petition directed the respondent no.3 to consider

the case of the petitioners along with other petitioners by passing a reasoned order.

Pursuant to the said direction of the coordinate Bench, the respondent no.3 passed its ***reasoned order on July 15, 2016, Annexure-P5 at page 34 to the writ petition***, the same is impugned in the instant writ petition.

Ms. Moumita Karmakar, learned advocate led by Md. Manuwar Ali, learned advocate appearing for the petitioners had submitted that the petitioners had been working since **1995** as an Assistant Teacher after receiving a valid appointment from the relevant school authority. The petitioners have been working with unblemished career and claimed their approval of services from the State authority.

Referring to the said ***impugned order dated July 15, 2016***, Ms. Karmakar, learned advocate for the petitioners submitted that, the relevant materials were not considered while passing the impugned order and the impugned order was erroneous and is liable to be set aside. The direction should be made to issue approval of the services in favour of the petitioners by the State authority.

Mr. Arindam Chattopadhyay, learned advocate appeared for the respondent nos. 1, 2 and 3. Referring to the said impugned order dated ***July 15, 2016*** he submitted that, the order is well reasoned and founded on

the basis of the materials available before the respondent no.3. The respondent no.3 had considered all the aspects and granted adequate opportunity of hearing to the petitioners and the relevant school. The relevant school authority contended that, they had never seen the petitioner attending the school. The relevant school authority did not place any record wherefrom it would be evident that the petitioners were working.

Mr. Arindam Chattopadhyay, learned advocate appearing for the State submitted that, the impugned order being well founded with reasons should not be interfered with.

After considering the submissions made on behalf of the parties and on perusal of the materials on record, this court in exercise of its writ jurisdiction had scrutinised the said impugned order dated **July 15, 2016 Annexure-P5 at page 34 to the writ petition.**

On scrutiny of the said impugned order it appeared to this Court that, the submissions of the relevant parties were duly recorded and the materials which were placed before the respondent no.3 were relevant and duly considered by the respondent no.3. The respondent no.3 by passing the said impugned order had come to a specific finding that, the alleged appointment of the petitioners was not a regular one and the appointment was not made in a manner and mode authorised in law.

The respondent no.3 then came to a finding that, the appointment which was made without following the due process of law and without having any sanction of law cannot be approved by the State authority.

On the overall assessment and scrutiny of the impugned order and the decision making process of the respondent no.3, this Court is of the firm view that, ***the impugned order does not suffer from any infirmity or illegality. Accordingly, the impugned order dated July 15, 2016, Annexure-P5 at page 34 to the writ petition stands affirmed.***

Resultantly, this writ petition, ***WPA 28742 of 2016*** stands dismissed, without any order as to costs.

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

(Aniruddha Roy, J.)