

Court No.22

13.7.2023

(Item No. 4)

(AB)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 29855 of 2014

Shyamal Kumar Mandal

VS

The State of West Bengal & Ors.

Mr. Pinaki Bhattacharyya

Mr. Saikat Pal

.... For the petitioner

Mr. Supriyo Chattopadhyay

.... For respondent Nos. 1 to 3

This is a hearing matter.

The office report dated April 10, 2015 showed that despite direction being given by a co-ordinate bench on December 2, 2014 no affidavit-in-opposition was filed. The writ petition is an age old one and pending since 2014. After considering the submissions made on behalf of the parties and on perusal of the materials on record this Court is of the view that any further pendency of this writ petition shall not serve any useful purpose and accordingly the same is taken up for consideration on the basis of the available materials.

The petitioner claimed to be an **Assistant Teacher** at **Sasanga High School (H.S.), presently District – Purba Burdwan**. Relying upon **Annexure P-5 at page 33** and **Annexure P-7 at page 36** to the writ petition Mr. Saikat Pal, learned advocate led by Mr. Pinaki Bhattacharyya, learned advocate appearing for the petitioner submitted that, the petitioner was

selected, appointed and ultimately was approved as a subject Teacher for **Physical Education** group with effect from **July 2, 2001**. Learned advocate for the petitioner submitted that, the petitioner then qualified **Bachelor of Education (B.Ed.)** and then the petitioner claimed that such qualification i.e. **B.Ed.** should have been and should be reflected in his employment career record.

In the first round of writ litigation **W.P. 20643 (W) of 2012** an order was passed by a co-ordinate bench on **January 3, 2013, Annexure P-12** at **page 46** to the writ petition where under the respondent No. 3 was directed to consider the issue raised by the petitioner by passing a reasoned order.

Following the said direction the respondent No. 3 passed its reasoned order dated **September 5, 2013, Annexure P-14** at **page 52** to the writ petition and rejected the claim of the petitioner. The relevant observation from the said impugned order is quoted below:

“It is found that the petitioner Shyamal Kumar Mandal was recommended by the West Bengal Regional School Service Commission as an assistant teacher in Physical Education group with effect from 2/7/2001 at Sasanga High School vide District Inspector of Schools (Secondary Education), Burdwan No. 1897, dated 4/9/2001.

The petitioner under B.Ed. Training as a deputed candidate in the session 2006-07 and passed the B.Ed. Examination in the year 2007.

By the time control of Expenditure Act, 2005 had become operative. An assistant teacher having qualification B.P.Ed. is eligible for the post assistant teacher only in Work and Physical Education. The applicant is an approved teacher in that group and B.P.Ed. is his professional qualification in respect of drawal of annual increment in terms of G.O. No. 14-SE(S), dated 8/1/98 qualification of an assistant teacher Physical Education in Bachelor degree with degree or Diploma in Physical Education from any recognized University.

The petitioner applied on 1/8/12 when the control of Expenditure Act, 2005 was in force with overriding effect on all orders issued earlier in this context.

So no relief can be granted in favour of the petitioner.”

In the instant second round of writ litigation the said impugned order dated **September 5, 2013** was assailed.

The learned counsel for the petitioner submitted that, since the petitioner had qualified B.Ed. the same would have a relevant bearing in his career record and as such the said qualification must reflect in the career record of the petitioner.

Mr. Supriyo Chattopadhyay, learned Additional Government Pleader appearing for respondent Nos. 1 to 3 submitted that, the petitioner was selected and approved as an Assistant Teacher

for the **relevant subject – Physical Education** and the necessary qualification was possessed by the petitioner on the basis where of the petitioner's career record in his employment would proceed. The learned Additional Government Pleader further submitted that for the relevant subject for which the petitioner is discharging his duties as an Assistant Teacher, **B.Ed. was not at all relevant.** Therefore the question of reflecting such B.Ed. qualification in his career record would not be there.

After considering the rival contentions of the parties and on perusal of the materials on record, this Court proceeded for a scrutiny of the said impugned order dated **September 5, 2013** passed by the respondent No. 3.

In exercise of its writ jurisdiction under judicial review, this Court has a limited authority to asses the said impugned order. The Court is empowered only to asses the decision making process of the impugned order and whether any glaring perversity exists on the face of it.

On a scrutiny of the said impugned order it appeared to this Court that, the same is well versed and reasoned. The reasons and findings appearing in the impugned order would clearly show that B.Ed. being not a material qualification for the petitioner whose relevant subject was Physical Education, the claim of the petitioner was rejected. The finding was

based upon proper consideration of the relevant materials available before the respondent No. 3 and on proper appreciation thereof.

For the foregoing discussions and reasons the reasoned order passed by the respondent No. 3 dated **September 5, 2013, Annexure P-14 at page 52** to the writ petition stands **affirmed and not interfered with** at all.

Resultantly, this writ petition being **W.P.A. 29855 of 2014** stands **dismissed**.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)