

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CPAN 50 of 2022

**Pushkar Gurung
Vs.
Smt. Rabina Tamang**

**In
WPA 1182 of 2021**

**Pushkar Gurung
Vs.
The State of West Bengal & Ors.**

Mr. D. N. Ray
Mr. Sourav Haldar
..for the petitioner

Mr. Sanjib Das
Mr. Pratik Acharjee
..for the alleged contemnor

Item No.03.

Heard & Judgment on: 30.06.2023

Bibek Chaudhuri, J.

This is an application under Section 215 of the Constitution of India read with relevant provisions of the Contempt Courts Act, 1971 for drawing up contempt against the respondent No.2 for willful and deliberate violation of the order dated 4th January, 2022 passed in WPA 1764 of 2021 by the District Inspector of Schools (Secondary Education) GTA, Darjeeling, Government of West Bengal in the Department of School Education. It would not be out of place to mention the relevant part of the impugned order dated 4th January, 2022 which runs hereunder:-

“Ms. Supriya Singh, learned advocate for the GTA has submitted a report issued by the District Inspector of Schools (SE), Darjeeling, GTA wherein he has raised question that the regularization of volunteer teachers was initiated in the past as per direction of the Higher Authority. There is no policy decision in respect of regularization of such volunteer teachers. At the same time, it is reported by the District Inspector of Schools (respondent No.2) that there is no Regional School Service Commission in the Hill Region for making appointment of teachers, nor is there any alternative recruitment procedure for appointment of teachers in absence of Regional School Service Commission.

When it is admitted by the respondent No.2 that there is no Commission for recruitment of teachers in GTA and there is no

alternative recruitment procedure, the fact remains that the teachers in GTA were initially appointed as volunteer teachers and subsequently they were regularized. It is not disputed by the learned Counsel for the GTA that as many as 313 teachers were regularized. It is also not disputed that a list of 10 numbers of teachers were prepared by the Authority for regularization and the name of the petitioner appeared in Serial No.3 of the said list. The teacher in serial No.10 has already been regularized. Therefore, the petitioner is also entitled to be equally treated with other regularized teachers and District Inspector of Schools (respondent No.2) cannot deny regularization of the petitioner. In view of above discussion, the instant writ petition is disposed of directing the respondent No.2 to consider the case of the regularization of the petitioner in view of the established principles of equality and fair play. The petitioner is directed to produce all relevant documents and testimonials regarding his initial appointment and academic qualification to the respondent No.2 and on due consideration of the said documents, the petitioner is entitled to be regularized by the respondent No.2."

The District Inspector of Schools (SE), GTA, Darjeeling considered the case of the regularization of the petitioner as per direction made by this Court in WPA 1764 of 2021 and passed an order on 21st April, 2022 holding, inter alia:-

"Regularization of 313 volunteer teachers working under different Govt. Aided Schools under GTA area were done as per the policy decision made by the State Govt. There was prior approval of the State Govt. Conveyed via Memo No. 254(S)SE/S/4A-18/15/PT-III dated 08.03.2019 of the Principal Secretary, School Education Dept. of Govt. of West Bengal, when approval of appointment was given to 313 volunteer teacher by the DI/S(SE).

The list of 313 volunteer teachers was sent to DI/S(SE), Darjeeling by the then Chairman, Board of Administrators, GTA vide Memo No.01/1-1/CH/BOA/GTA/2019/20 dated 08.03.2019. The names of the petitioners does not appear in the list of 313 volunteer teachers but they have been listed in the subsequent list of 10 volunteer teachers, which unlike the list of 313 had no prior approval of the State Government. One Takendra Sunuwar whose name appeared in Sl. No.10 of the list of 10 was regularized because his name was already there in the list of 313 volunteers, sent to DI/S(S.E.) by the then Chairman B.O.A., G.T.A. Hence it is considered that only those volunteers were regularized whose names appeared in the authentic list of 313 volunteers approved by the Board of Administrators, GTA."

The reasoned order dated 21st April, 2022 is that the alleged contemnor was not in a position to regularize the appointment of the

petitioner on the ground that his name has not been approved by the State Government.

Denial to approve the name of the petitioner by the State Government was not a matter for consideration by the writ Court. The reasoned order dated 21st April, 2022 has disclosed a new case and new cause of action for which the petitioner is entitled to file an appropriate application under Article 226 of the Constitution of India.

On perusal of the reasoned order dated 21st April, 2022, this Court finds that the order passed by this Court in WPA 1764 of 2021 was violated. In view of such circumstances, I do not find any merit in the contempt application.

Accordingly, the instant contempt application is dismissed.

The petitioner is, however, at liberty to file a fresh writ petition on new cause of action.

(Bibek Chaudhuri, J.)