

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

M.A.T. 163 of 2023

Sajeeda Sabnam

-Vs-

The State of West Bengal & Ors.

For the Appellant : Mr. Tapas Kr. Bhattacharya, Adv.,
Mr. Aviroop Bhattacharya, Adv.

For the State : Mr. Jahar Lal De, Adv.,
Mr. Shamim Ul Bari, Adv.
Ms. Indrani Nandi, Adv.

**For the Respondent
No.11** : Mr. Sarwar Jahan, Adv.

**For the Respondent
No.12** : Md. Nauroz Rahber, Adv.,
Mohammad Jawwad, Adv.

Heard on : 21.08.2024 & 28.08.2024

Judgment on : 28.08.2024

Joymalya Bagchi, J. :-

1. Appellant was appointed as a third Sahayika in a Sishu Shiksha Kendra. Her appointment was on the strength of two agreements dated 1st January, 2008 and 2nd May, 2008 which admittedly

expired on 30th April, 2009. It is grievance of the appellant she was appointed in a post involving perennial nature of job but her contract was not renewed and another candidate being respondent no.12 was appointed in her place.

2. Mr. Bhattacharya refers to Memo.No.2849/PN/O/I/O-6/2003 dated 26th June, 2009 wherein it is stated that the cancellation/refusal to renew subsisting contracts between the Management Committee of a Sishu Shiksha Kendra and a Sahayika cannot be done without prior enquiry by Panchayat Samiti concerned.
3. Mr. Dey for State and Mr. Jahan for respondent No.11-Paschim Banga Rajya Sishu Shiksha Mission submits the appointment of appellant/writ petitioner was not done with prior permission of the Panchayat Samiti concerned and through open advertisement. Accordingly, she cannot claim benefit of the aforesaid circular.
4. We have perused the agreements executed between the appellant-Sahayika and Sishu Shiksha Kendra. There is nothing in the agreements which show her appointment was with the prior permission of the Panchayat Samiti concerned. Condition precedent for applicability of the memo dated 26th June, 2009 is that the Sahayika has to be appointed by the Managing Committee of Sishu Shiksha Kendra in terms of Department Order No.5087(36)-PN/O/I/O-6/2003 dated 27th October, 2006, that is with prior

permission of the Panchayat Samiti concerned. Appellant is unable to show that her appointment was done with prior permission of Panchayat Samiti in terms of the aforesaid departmental order.

5. Hence, she cannot claim the protective umbrella of the Memo. No. dated 26th June, 2009. Moreover, Hon'ble Single Judge rightly held that her appointment was temporary and her tenure had already expired on 30th April, 2009.
6. Under such circumstances, we do not find any merit in the appeal and the same is accordingly dismissed.
7. Connected application, if any, is also dismissed.
8. There shall be no order as to costs.
9. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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