

WPA 12609 of 2019

**Abhishek Anthony Thomas
Vs.
The State of West Bengal & Ors.**

**Mr. Sandip Kumar De,
Mr. Abhijit Sarkar.
... for the petitioner**

**Ms. Sreemoyee Mukherjee.
... for the respondent
nos. 7 & 8**

1. The petitioner is the candidate of minority category who was appointed in the respondent school that is, a Minority Educational Institution, vide appointment letter dated May 12, 2017.
2. The petitioner's approval has not been accorded by the respondent State.
3. Hence, this writ petition.
4. The petitioner has challenged the order of the Additional District Inspector of Schools, Secondary Education, Asansol Sub-Division, Paschim Burdwan dated June 15, 2018, by dint of which, the said authority has rejected petitioner's prayer for grant of approval.
5. For rejection of grant of approval to the writ petitioner, the concerned authority has put forth various grounds.
6. According to the petitioner, excepting one of those, none of the other grounds would be tenable. He would submit that the institution in which he has been appointed, being a Minority Educational

Institution and having its own rules and regulations governing its employees and also having been protected under the provisions of Article 30 of the Constitution of India, he cannot be imposed with any other rules and regulations excepting that of the said institution itself, as the governing rules and regulations.

7. So far as the grounds taken by the said respondent authority in the impugned order, regarding illegal or irregular publication of employment notification by the school authority, pursuant to which the petitioner had applied participated in the process of recruitment and ultimately appointed. It is submitted that, in a direct recruitment process no such specific time limit for publication of notification would be applicable.
8. It would further be submitted that the petitioner being a minority candidate himself, would be eligible for appointment directly without taking part in the recruitment process, in terms of the existing rules and regulations.
9. On the basis of the submissions as above, the grounds taken up by the respondent authority in the impugned order regarding invalidity of the recruitment process, is denied and disputed.
10. Mr. Sandip Kumar De, learned counsel for the petitioner would submit, however, that the finding of the concerned respondent authority in the said impugned order regarding the erroneous pay scale of the writ petitioner would be a justified ground. It is

submitted that the petitioner has erroneously allowed the post graduate scale of pay. That, instead of the same, the petitioner would have to be allowed the pass graduate scale of pay in the scale of Rs.7100/- to Rs.37600/- in pay band 3 with grade pay of Rs.4100/-.

- 11.** Mr. Sandip Kumar De, learned counsel for the petitioner has sought for necessary order to be passed in this case.
- 12.** Ms. Sreemoyee Mukherjee, learned counsel is appearing for the school authority and reiterates that the petitioner's pay has to be refixed in an appropriate scale.
- 13.** On perusal of the records and the impugned order, the Court finds corroboration to what has been submitted on behalf of the writ petitioner.
- 14.** In view of the same, the Court finds it proper to dispose of the present writ petition with the following directions:-
 - (i).** The respondent school authority shall issue a corrigendum to the appointment letter of the petitioner dated May 12, 2017 to indicate the actual pay scale, pay band and grade pay, to be allowable to him, with effect from the date of his appointment, by modifying the earlier appointment letter.
 - (ii).** The petitioner's salary shall be fixed afresh in the pay scale of a pass graduate candidate.
 - (iii).** The petitioner shall henceforth be paid with the said refixed pay scale at the rate of pass graduate category.

(iv). After refixation of the pay scale of the writ petitioner in the manner as narrated above, the respondent Nos. 4 and 5/District Inspector of Schools, Secondary Education, Burdwan shall consider in accordance with law the case of the writ petitioner for grant of approval and in case finds the writ petitioner to be eligible, shall grant him approval.

(v). The exercise as above shall be concluded by the respondent nos. 4 and 5 within a period of a fortnight from the date of obtaining necessary papers from the concerned school authority, after refixation of pay scale of the petitioner.

15. This writ petition being WPA No. 12609 of 2019 is disposed of, along with the pending applications, if any.

16. Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(Rai Chattopadhyay, J.)