

ML- 04.12.2024
44 Ct.18
rkd

W.P.A. 15540 of 2023

Sk. Md. Rafiul Mohassin

-vs-

The State of West Bengal & Ors.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Sampriti Saha,
Ms. Swati dey

....for the petitioner.

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar

....for the Madrasah Service Commission.

Ms. Nadeem Sulaiman

....for the Madrasah Board.

Mr. Supriyo Chattopadhyay,
Ms. Tapati Samanta,
Mr. Murari Chakraborty,
Ms. Rinku Ghosh

....for the State.

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

Petitioner is claiming to be an Assistant
Teacher in Siddiqueiah Senior Madrasah which is a
recognized Madrasah. In support of same appointment
letter dated 19th April, 2009 issued by the Secretary of
the aforesaid Madrasah is relied upon which is at page
14 of the writ petition.

It is submitted since petitioner was appointed
in the aforesaid Madrasah and is working from the
month of April, 2009 he should be permitted to
continue as Assistant Teacher of the said Madrasah

and should be accorded approval of appointment.

It is indisputable that aforesaid Madrasah is not Government recognized aided Madrasah. Rather it is an unaided recognized Madrasah.

Since aforesaid Madrasah is an unaided institution for disbursing salaries of teaching and non-teaching staff of the said Madrasah no Government grant is sanctioned and the said Madrasah is not covered under deficit Grant-in-Aid Scheme.

Moreover, on perusal of the appointment letter dated 19th April, 2009 it appears that initial appointment of the petitioner as an assistant Teacher does not comply with the relevant recruitment rules. No prior permission is produced before this Court issued by concerned District Inspector of Schools (SE) nor any recommendation memo is on record which goes to show that for appointment of the petitioner West Bengal Madrasah Service Commission has taken steps.

In view of aforesaid scenario, no enforceable right accrues in favour of the petitioner warranting issuance of mandamus in order to protect the service of the petitioner.

In this regard, reliance is placed on the judgment of the Hon'ble Apex Court reported in 2006 Vol. 4 SCC 1 (Secretary, State of Karnataka & Ors. -vs-

Uma Devi (3) & Ors.).

Hence, the writ petition stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)