

WPA 30122 of 2017

**Ila Haldar (Biswas)
Vs.
State of West Bengal & Ors.**

**Mr. Biswaroop Biswas,
Mr. Kamal Misra,
Mr. Abhijit Basu.**

... for the petitioner

**Mr. Kamalesh Bhattacharya,
Mr. Aninda Bhattacharya.**

... for the School Authority

**Mr. Jyoti Prakash Chatterjee,
Mr. Kartick Chandra Kapas.**

... for the State

1. The writ petitioner who is a teacher of Christian Minority Girls' Primary School, South 24 Parganas is before the Court in this writ petition, to challenge the order of the District Inspector of Schools, Primary Education, South 24 Parganas dated 06.05.2016.
2. The impugned order speaks about rejection by the said authority of the writ petitioner's prayer for approval in the post in which she has been working after being appointed on 23.02.2009.
3. Mr. Biswaroop Biswas, learned counsel is appearing for the writ petitioner. He has mentioned about an order of this Court dated 04.03.2024 in WPA no. 30121 of 2017 (Tamalika Das vs. State of West Bengal & Ors.). He says that the present writ petitioner is similarly circumstanced with the petitioner in the said abovementioned writ petition and may thus be granted same order, as has been passed in the said writ petition.

4. He urges that the ratio of the order of this Court as above, is binding in the case of the present petitioner also, so far as the merits of the case is concerned.

5. According to Mr. Biswas, learned counsel for the petitioner, the writ petitioner being appointed as a teacher in a Minority Institution as mentioned above, should not be considered to be bound by any of the administrative control of the State respondent in the matter of her employment and that for her employment, she would only be governed by the rules and procedure of the minority institution itself, with which she has been engaged so far.

6. For this, he has referred to various documents as annexed in the writ petition as well as an order of the Hon'ble Coordinate Bench of this Court dated 08.10.2015 (W.P. No. 25062 (W) of 2015).

7. He would again rely on the decision of the National Commission for Minority Educational Institution to submit that the Minority Institution in which the writ petitioner has been engaged, would be free of any control of the State respondent and guided by its own policies, rules and norms, as it was held by the Commission by dint of its order dated 13th June, 2012.

8. For all these reasons, Mr. Biswas submits that the present writ petition should be disposed of in tune with the decision of this Court dated 04.03.2024 in WPA no. 30121 of 2017.

9. The State Authorities as well as School Authorities have put forth strong objection, as to the contentions and prayer of the writ petitioner. The crux of submissions made on their behalf by the learned respective counsels,

that is Mr. Kamallesh Bhattacharya and Mr. Jyoti Prakash Chatterjee, would be that firstly, unless and until the writ petitioner have been appointed against the sanctioned vacancy, such appointment would not be in terms of the rules and procedure and thus should be rendered as illegal.

10. It is further stated that the appointment procedure of the writ petitioner has also not been in conformity with the settled law in so far as there has not been any open advertisement at all before grant of appointment to the present writ petitioner. Thus, according to the said respondents, the process of appointment of the petitioner violates even the constitutional mandate.

11. It is submitted that principally for these two vital reasons, amongst others, the State authority would not be duty bound in any way to grant approval for appointment of the petitioner in the said school.

12. Considering the facts and circumstances of the case, I find that the present writ petitioner was similarly placed, as the writ petitioner in WPA no. 30121 of 2017. She was appointed vide appointment letter dated 23.02.2009 and since then, she has been working in the said Minority Educational Institution. As a matter of fact school has recommended a list of teachers for approval before the State respondent, in which list the present petitioner is placed alongside the petitioner in WPA 30121 of 2017.

13. So far as the objections raised on behalf of the respondents as discussed above, the same would not be tenable in view of the reasons already discussed by this

Court in the earlier writ petition being WPA 30121 of 2017.

14. In the facts and circumstances of the instant case as the writ petitioner is found to be similarly circumstanced with the petitioner in WPA no. 30121 of 2017 to the same school and being covered by the same order of the authority, this Court finds it proper to dispose of the present writ petition in the light of finding of this Court in WPA no. 30121 of 2017, as mentioned above.

15. Accordingly, the writ petition is allowed with the directions as follows:-

(i). The impugned order dated 06.05.2016 passed by the District Inspector of Schools, Primary Education, South 24 Parganas, is set aside.

(ii). The respondent District Inspector of Schools shall issue an order of approval of the writ petitioner, in terms of the order of the National Commission dated 13.06.2012 and the order of the Assistant Secretary dated 25.07.2012, within a period of two weeks from the date of service of a copy of this order, to the office of the said respondent.

16. This writ petition being WPA 30122 of 2017 is disposed of, along with the connected pending applications, if any.

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

(Rai Chattopadhyay, J.)