

24.06.2024.
Court No.13
Item No. 43
ap

W.P.A. No. 21103 of 2023
Shri Tarak Chandra Das
Versus
The State of West Bengal & Ors.

Mr. Shanti Ranjan Das,
Mr. Kshetra Prasad Mukhopadhyay.
...For the petitioner.

Mr. Biswabrata Basu Mallick, Id. AGP
Mr. Supratim Dhar,
Mr. Rabindra Nath Pal.
...For the State.

1. Affidavit-of-service filed in Court today be taken on record.
2. The petitioner claims to be an organizing teacher of one Dwijaharidas Nagar Primary School at Barasat, North 24 Parganas. The petitioner claims to have been appointed as such by the villagers and people of the locality. The said School came to be recognized by the District Primary School Council, North 24 Parganas sometime in the year 1992.
3. The petitioner and several other persons claiming as “organizing teachers” asserted a right to be appointed before the District Primary School Councils, under the State. Several writ petitions came to be filed by such persons including the writ petitioners.
4. The writ petitioner’s writ petition being W.P. No. 28115 of 2012 was dismissed by a Single Bench of this Court on 9th June, 2015. The Single Bench expressed surprise and shock that the people of the locality have

started recommending appointment of Primary Teachers. This Court shares the anguish and surprise of the Co-ordinate Bench of this Court.

5. The organizing teachers formed an Association called West Bengal Organizer Primary Teachers Association. The said Association and others also filed a writ petition claiming to be teachers under the State. The said writ petition was dismissed along with several other similar writs.

6. The Association carried the same before a Division Bench of this Court in F.M.A. No. 294 of 2005. The petitioner also filed an appeal against the order dated 9th June, 2015 being M.A.T. No. 1018 of 2015. The appeal was admitted on 20th July, 2015 but no interim order was passed.

7. In the meantime, by a detailed judgment and order dated 8th December 2017, a Division Bench of this Court dismissed F.M.A. No. 294 of 2005. By reason of the said judgment, the claims for 5616 persons claiming to be organizing teachers were rejected.

8. The said Division Bench judgment dated 8th December 2017 was challenged before the Hon'ble Supreme Court of India in several applications under Article 136 of the Constitution of India. The principal appeal was Civil Appeal No. 4772 of 2018 (Naba Parjay West Bengal Primary Organizer Teachers' Association – Vs. – The State of West Bengal & Ors.). The Hon'ble Supreme Court of India directed that the applicants

would file affidavits giving their names, address, date of becoming member of Association, the number of the writ petition, date of birth, the School in which they work evidenced to show that they were teachers and entitled to become a member of the Association. Several interim orders were passed thereafter by the Hon'ble Supreme Court.

9. Finally the SLPs were disposed of directing all such affidavits by Organizer Teachers to be filed before the Secretary, West Bengal State Legal Services Authority, who would verify the credentials of all the persons and submit a report to the Secretary, School Education Department of the Government of West Bengal.

10. It was further ordered that no Court would entertain any further challenge to such report to be submitted by the Secretary, West Bengal State Legal Services Authority. For the sake of convenience, the relevant portion of the order of the Hon'ble Supreme Court of India dated 3rd May, 2018 is set out hereinbelow:

“10. No Court shall entertain any further challenge on the report thus submitted by the Secretary to the West Bengal Legal Service Authority and there shall be no further dispute in this regard. The Secretary, is also directed not to entertain any fresh applications or fresh record. We direct the Registry of this Court to forward the records as on 25.04.2018 to the Secretary to the West Bengal Legal Services Authority within ten days from today.”

11. The petitioner neither filed any affidavit nor raised any claim before the West Bengal State Legal Services Authority. Instead he revived his appeal that

was renumbered as F.M.A. No. 3278 of 2015 and was disposed of by Judgment dated 20.02.2023.

12. The Division Bench of this Court observed as follows:

“While this Court is not in a position to appreciate whether the Organizing Teachers who were before the Hon’ble Apex Court and the present appellant are identically circumstanced, it falls to reason that at the same time the present appellant is entitled to claim the benefit of the verification process as initiated and laid down by the three orders of the Hon’ble Apex Court (supra).

In the above conspectus of facts and the legal pronouncements applicable to such facts, this Court, notwithstanding the orders passed by the Hon’ble Single Bench, permits the present appellant/the writ petitioner to approach the appropriate Court seeking a parity of treatment.

The above view of this Court stands fortified by the clear decision of the Hon’ble Apex Court vide its order dated 6th October, 2016 (supra) to the effect that no Court shall entertain any further challenge to the report submitted by the West Bengal State Legal Services Authority and there shall be no further dispute in this regard. This Court is also mindful of the direction upon the Secretary, West Bengal State Legal Services Authority, not to entertain any fresh applications and fresh records.

Last but not the least, the Orders of the Hon’ble Apex Court dated 28th January, 016, 16th of April, 2016 and 6th of October, 2016 are subsequent to the decision of the Hon’ble Single Bench dated 9th June, 2015 (supra) as impugned in this appeal. In the above view of the matter this Court is of the view that the appellant/the writ petitioner deserves an opportunity to ventilate his claim before the appropriate Court notwithstanding the order of dismissal passed by the Hon’ble Single Bench.

FMA 3278 of 2015 with IA No. CAN 1 of 2015 (Old No. CAN 6553 of 2015) with IA No. CAN 2 of 2015 (Old No. CAN 12094 of 2015) with IA No. CAN 3 of 2020 stand accordingly disposed of.”

13. This Court is of the clear and unequivocal view that since the petitioner has not chosen to file any affidavit before the West Bengal State Legal Services Authority, no further claim of the petitioner can be

entertained in view of the observations of the Hon'ble Supreme Court of India set out hereinabove.

14. In so far as the repeated assertions by the learned Counsel for the petitioner of the observations of the Division Bench in its judgment and order dated 20th February, 2023 that have been set out herienabove, this Court is of the view that the observations of the Hon'ble Supreme Court of India at paragraph 10 are binding on this Court. The petitioner not having availed any benefit from the directions of the Hon'ble Supreme Court of India, no claim on his behalf can be entertained in the instant writ petition.

15. The writ petitioner is 60 years of age. There is no way for this Court to travel outside the directions of the Hon'ble Supreme Court of India and re-verify or entertain any enquiry into the petitioner's credentials that has been left in the executive domain of the WBSLSA.

16. The writ petition must therefore fail and is hereby dismissed.

17. There will be no order as to costs.

18. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

19. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Rajasekhar Mantha, J.)

