

11.03.2024
Item No. ml.134
Crt.No.22
b.r.

WPA 20395 of 2007
IA No., CAN 1 of 2007 (Old No. CAN 8497 of 2007)
CAN 2 of 2013 (Old No. CAN 6179 of 2013)

Dr. Mithu Ghosh
-vs-
The State of West Bengal & Ors.

Mr. Ekramul Bari
Mr. Bulbul Yeasmin
..... for the petitioner.

Mr. Ekramul Bari, learned counsel appears for the petitioner.

The writ petitioner acquired **Ph.D Degree** in **Bengali** being the relevant subject in the **year 1996**. The date of convocation of the petitioner was **July 27, 1996**. The petitioner was granted two additional increment by the relevant school.

Subsequently, the said two additional increments were stopped under a communication dated **August 29, 2007, annexure p-4 at page-26** to the writ petition, issued by the respondent no.3.

The petitioner has impugned this action of the respondent no.3 through the instant writ petition.

Mr. Ekramul Bari submits that the respondent no.3 has already used an affidavit in opposition which was served upon the petitioner. However, the original affidavit in opposition is not on record.

None appears for the respondents, nor any accommodation has been sought for.

On a close scrutiny of the said communication issued by the respondent no.3 dated August 29, 2007, it appears to this Court that the final decision was not taken by the State authority on the issue.

Considering the above, the petitioner shall furnish a copy of the writ petition along a copy of the affidavit in opposition served upon her before the Commissioner of School Education, State of West Bengal who was previously the respondent no.2 and accordingly was impleaded in this writ petition.

The Commissioner of School Education upon issuing a prior hearing notice of at least seven days on the petitioner and the respondent no.3 shall decide the issue after giving them an opportunity of hearing and then shall pass a reasoned order in accordance with law.

The entire exercise as directed above shall be carried out and completed by the Commissioner of School Education positively within a period of **six weeks** from the date of communication of this order. The Commissioner then shall communicate the reasoned order upon the petitioner and the respondent no.3 positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the case of the petitioner neither the case of the respondent no.3 made out through his affidavit in opposition.

The parties shall be at liberty to urge whatever points they wish to urge before the Commissioner of School Education relying upon the existing materials on the basis whereof the respondent no.3 took its decision dated **August 29, 2007, annexure p-4 at page 26** to the writ petition and the parties shall not make out any further case beyond the writ petition and the affidavit in opposition filed in this writ petition.

The parties shall be at liberty to place the relevant circulars and the relevant judgments on the issue, if they think fit.

It is also made clear that this order shall not create right or equity in favour of the petitioner, if the petitioner is not eligible to receive his claims strictly in accordance with law.

On the above terms, this writ petition, **WPA 20395 of 2007** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)