

28
27.11.2024
Ct. No. 18
adeb

W.P.A. 25338 of 2024

**Tanjina Easmin
Vs.
The State of West Bengal & Ors.**

Mr. Biswaroop Bhattacharyya
Mr. Anindya Bose
Mr. Golam Mohiuddin
...for the petitioner

Mr. Shamim ul Bari
Ms. Joyee Maiti
...for the State

Mr. Prasenjit Mukherjee
Mr. Md. Habibur Rahaman
...for the respondent nos. 7 & 8

Mr. Saharayar Alam
...for the respondent no. 9

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

By presenting this writ petition prayer is made for
issuance of mandamus directing the concerned
respondent authorities to grant approval of appointment
in favour of the petitioner based on her appointment
made by authority of Ukhaliya Karimia Junior High
Madrasah, District-Dakshin Dinajpur (hereinafter
referred to as 'said madrasah') with effect from 28th
May, 2009. During course of hearing learned advocate
representing the petitioner relies upon representation
dated 9th November, 2022 addressed to the Director of
Madrasah Education wherein it has been stated that
petitioner was appointed by the said madrasah authority

with effect from 28th May, 2009. In the year 2017 petitioner had to take maternity leave and after such leave when petitioner tried to join said madrasah she was not permitted and it is also stated that in place of petitioner other candidates have been permitted to function as assistant teacher of said madrasah. Reliance is also placed on certificate dated 3rd November, 2022 purportedly issued by the Secretary of the said madrasah wherein it is stated that petitioner was working in the said madrasah from 1st June, 2006.

Respondents are represented by learned advocates.

Learned advocate representing the State-respondents submits that said madrasah is though recognized by the concerned State authorities but it is an unaided institution. Therefore, teachers working in the said madrasah are not getting salary under grant-in-aid scheme of the State. It is also submitted that since said madrasah is an unaided institution question of granting approval by the State authorities does not arise.

Said madrasah authority is represented by learned advocate who has placed before this Court a copy of appointment letter which was issued in favour of the petitioner on 28th May, 2009 and same is taken on record. From the said appointment letter it appears that petitioner was temporarily appointed as assistant teacher and she was appointed in the year 2009 not in 2006.

Having considered the submissions made on behalf of the parties and perusal of the relevant materials

available on record it appears that initial appointment of the petitioner as assistant teacher in said madrasah was *dehors* the recruitment rules. It further appears from the appointment letter dated 28th May, 2009 that petitioner was appointed temporarily. Furthermore, since the said madrasah is an unaided recognized institution there is no requirement to grant approval of appointment by the concerned District Inspector of Schools (SE) in favour of staff of the said madrasah.

No enforceable right is accrued in favour of the petitioner warranting issuance of mandamus in order to protect the right of the petitioner in relation to continuity in service. Hence, writ petition stands dismissed.

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

(Saugata Bhattacharyya, J.)