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W.P.A. 25141 of 2024

Shri Harekrishna Mandal

-vs-

The State of West Bengal & Ors.

With

W.P.A. 25029 of 2023

Binoy Krishna Mandi & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Sougata Mitra,
Ms. Dipanwita Ganguly,
Mr. Subhadeep Maitra

....for the petitioner in WPA 25141 of 2024.

Mr. Uday Sahankor Bhattacharyya,
Mr. Ashim Kumar Ghosh

....for the petitioner in WPA 25029 of 2023.

Mr. Sougata Mitra,
Ms. Dipanwita Ganguly,
Mr. Subhadeep Maitra

....for the private respondents in WPA 25141 of 2024.

Mr. Uday Sahankor Bhattacharyya,
Mr. Ashim Kumar Ghosh

....for the respondent no.8 in WPA 25029 of 2023.

Mr. Supriyo Chattopadhyay,
Mr. Manoj Kumar Mondal

....for the State in WPA 25141 of 2024.

Mr. Jayanta Sasmata,
Ms. Paromita Malakar

For the State in WPA 25029 of 2023.

Mr. Nikhil Kumar Gupta,
Ms. Subhasri Chatterjee

....for the School Authority.

Both the writ petitions are taken up for consideration in presence of the learned advocates representing the parties.

Writ petition being WPA 25029 of 2023 (first

writ petition) is preferred by respondent no.8 in the writ petition being WPA 25141 of 2024 (second writ petition) who is an Assistant Teacher of Telipukur High School (HS), District- Paschim Medinipore (hereinafter referred to as “said school”).

The second writ petition is filed being WPA 25141 of 2024 by another Assistant Teacher of the said school who participated in the interview held on 15th October, 2023 for filling up the post of Assistant Headmaster in the said school and in the panel he stood first.

First writ petition was filed challenging prior permission dated 27th April, 2023 being Memo No.88/KGP whereby Additional District Inspector of Schools (SE), Kharagpur Sub-Division, Paschim Medinipore granted prior permission in favour of the said school authority to fill up the vacant post of Assistant Headmaster in the said school. Basis of such challenge is post sanctioning memo whether accorded by the concerned State respondents or not.

Today on behalf of the petitioners in the first writ petition two supplementary affidavits have been filed and same are taken on record.

The learned advocate representing the petitioners in the first writ petition relying upon a complaint dated 12th April, 2023 lodged by another

Assistant Teacher of the said school has submitted that though in said complaint Memo No.3439-S dated 4th September, 1997 was described as prior permission but in the last prior permission Memo dated 27th April, 2023 issued by the Additional District Inspector of School (SE), Kharagpur Sub-Division same was considered as post sanctioning memo based on which prior permission was accorded.

A document at page 6 of one of the supplementary affidavits affirmed on 2nd December, 2024 is also relied upon in order to demonstrate before this Court that Memo No.3439-S dated 4th September, 1997 was a prior permission not post sanctioning memo. Therefore, it is contended that in absence of post sanctioning memo merely on prior permission first dated 4th September, 1997 and the subsequent prior permission dated 27th April, 2023 the said school authority should not be permitted to fill up the post of Assistant Headmaster.

Second writ petition has been instituted by another Assistant Teacher in the school who stood first in the panel prepared for appointment of Assistant Headmaster which was submitted before the Additional District Inspector of Schools (SE), Kharagpur Sub-Division on 16th October, 2023 but till date approval on such panel has not been accorded by the concerned

ADI.

It is also submitted that interview was held on 15th October, 2023 where petitioner in the second writ petition participated but the petitioners in the first writ petition did not participate and subsequently instituted the first writ petition questioning the prior permission dated 27th April, 2023 in order to frustrate the selection process.

It is contended on behalf of the petitioner in the second writ petition that once selection process is complete by submitting the panel before the concerned ADI on 16th October, 2023 pursuant to the prior permission dated 27th April, 2023 the concerned ADI is required to take decision on such panel in terms of the guidelines for recruitment of Assistant Headmaster as contained in Memo dated 10th July, 2002. According to the petitioner in the second writ petition, petitioners in the first writ petition have no *locus standi* since they did not participate in the selection process.

State respondents are also represented by learned Additional Government Pleader who submits that based on prior permission dated 27th April, 2023 when selection process was concluded concerned ADI may be directed to take decision in terms of guidelines for recruitment of Assistant Headmaster as contained in Memo dated 10th July, 2002.

Having considered the submissions made on behalf of the respective parties in connection with the aforesaid two writ petitions, this Court finds that even Memo No.3439-S dated 4th September, 1997 is treated as prior permission, it appears from subsequent prior permission accorded vide Memo dated 27th April, 2023 that previously one Ranjit Kumar Ghosh functioned as Assistant Headmaster in the said school based on Memo dated 4th September, 1997 and there was no demur against functioning of said Ranjit Kumar Ghosh as Assistant Headmaster.

Petitioner No.1 in the first writ petition applied to participate in the selection process but subsequently did not remain present before the interview Board on 15th October, 2023 being the date of interview and challenged the selection process on the count that there was no valid sanctioning memo in connection with the post of Assistant Headmaster.

On perusal of subsequent prior permission dated 27th April, 2023 it appears that previously there was one Memo dated 4th September, 1997, if same is treated as prior permission based on which said Ranjit Kumar Ghosh functioned as Assistant Headmaster and after superannuation of Ranjit Kumar Ghosh again a prior permission has been issued vide Memo dated 27th April, 2023 permitting the said school authority to fill

up the post of Assistant Headmaster.

Pursuant to the prior permission dated 27th April, 2023 in terms of the guidelines for recruitment of Assistant Headmaster as contained in memo dated 10th July, 2002 selection process was complete and panel was prepared which was submitted before the concerned ADI on 16th October, 2023.

In terms of the relevant provisions of the guidelines relating to recruitment in the post of Assistant Headmaster concerned District Inspector of Schools is required to convey his decision within a period of one month from the date of receipt of panel form the Managing Committee of the school.

Since panel was submitted on 16th October, 2023 this Court finds it apt to direct the Additional District Inspector of Schools (SE), Kharagpur Sub-Division being respondent no.4 to take decision on the panel prepared by the said school authority and submitted on 16th October, 2023 by fortnight from the date of communication of this order and the decision to be taken by the respondent no.4 shall be communicated to the parties one week thereafter.

The respondent no.4 shall examine whether the post of Assistant Headmaster in the said school is a sanctioned post or not based on which last prior permission was accorded on 27th April, 2023.

If respondent no.4 finds that there was anomaly with regard to issuance of prior permission on 27th April, 2023 vide Memo No.88/KGP appropriate order shall be passed relating to approval of panel.

With the aforesaid observations and directions, both the writ petitions stand disposed of.

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.)