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14.11.2024
Ct. No. 18
adeb

W.P.A. 26735 of 2024

**Sabnam Parvin
Vs.
The State of West Bengal & Ors.**

Mr. Syed Mansur Ali
Mr. Sk. Imtiaj Uddin

...for the petitioner

Mr. Suman De
Ms. Indrani Nandi

...for the State

Mr. Anjan Bhattacharya
..for the respondent no. 7

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

By presenting this writ petition, *inter alia*,
petitioner has prayed for issuance of release order, last
pay certificate etc. based on recommendation memo
dated 23rd August, 2024 issued by the Secretary, West
Bengal Madrasah Service Commission for her transfer to
Bankra D.Q High Madrasah (HS). Learned advocate
representing the petitioner submits on placing reliance
on a document at page 18 of the writ petition that an
application in prescribed format was made by the
petitioner and headmistress of Haji Maharam Ali
Siddiquia Girls' High Madrasah (HS) District- Howrah
(hereinafter referred to as "said madrasah") endorsed on
the transfer application of the petitioner that the
headmistress had no objection if petitioner is transferred.

Based on such application recommendation was made by the West Bengal Madrasah Service Commission vide memo dated 23rd August, 2024 and appointment letter was issued by the concerned authority of Bankra D.Q. High Madrasah (HS) on 2nd September, 2024 but petitioner could not join the transferred post since she has not been released by the said madrasah authority. Since timely decision could not be taken by the said madrasah authority for release of the petitioner, Secretary, West Bengal Board of Madrasah Education fixed date of hearing on 26th September, 2024 to resolve the issue relating to release of the petitioner but on the said date nobody represented the said madrasah before the Secretary. Taking note of the decision taken by the Managing Committee of the said madrasah on 19th September, 2024 said madrasah authority was directed by the West Bengal Board of Madrasah Education to release the petitioner within 7 (seven) days for her joining in the transferred post.

Headmistress of the said madrasah is represented by learned advocate who has opposed the prayer of the petitioner on the count that in terms of Rule 30(10) of the West Bengal Madrasah Service Commission Recruitment (Selection and Recommendation of persons for Appointment and Transfer to the Posts of Teacher and Non-Teaching Staff) Rules, 2023 it is either madrasah authority or head of the madrasah in absence of

madrasah authority is empowered to issue release order in favour of the petitioner. It is further submitted that in terms of the provisions as contained in Rule 30(10) of the aforesaid Rules of 2023 since Managing Committee of the said madrasah is functioning Secretary of the Madrasah is the appropriate authority to issue release order. According to the headmistress question would have been different in the event there is inexistence of Managing Committee when only head of the institution can issue release order.

State-respondents are represented by learned advocate.

During course of hearing on considering the provisions as contained in aforesaid Rules of 2023 it appears that Rule 30(11) needs to be pressed into service in consideration of the prayer made by the petitioner praying for issuance of release order. For better understanding of the issue this Court finds it apt to quote Rule 30(11) of the aforesaid Rules of 2023 below:-

“30(11) In case of failure on the part of the Madrasah Authority or the Head of the Madrasah to release, the applicant shall apply to the concerned District Inspector of Schools (SE)/authorized officer who shall take necessary steps for immediate release along with necessary certificate(s)/paper(s) or the concerned District Inspector of Schools (SE)/authorized officer shall release the applicant.”

From the situation as it emanates after issuance of appointment letter dated 2nd September, 2024 issued by the authority of Bankra D.Q. High Madrasah (HS) it can

safely be concluded that the said madrasah authority has not been able to resolve the issue relating to issuance of release order, last pay certificate etc. Though Managing Committee meeting has been convened on 19th September 2024 as it appears from page 24 of the writ petition deciding to release the petitioner on 20th September, 2024 but it is submitted on behalf of headmistress of the said madrasah that on the date of meeting held on 19th September, 2024 headmistress and the Secretary of the said madrasah did not remain present and the veracity of the said resolution is also disputed.

Such submission made on behalf of headmistress of the said madrasah fortifies the conclusion drawn by this Court that the said madrasah authority has not been able to issue release order in spite of the fact that at the time of considering transfer application of the petitioner headmistress of the said madrasah by making endorsement conveyed “no objection”.

In view of aforesaid situation the District Inspector of Schools (SE), Howrah being respondent no. 5 is directed to issue release order and last pay certificate in favour of the petitioner by 7 (seven) days from the date of communication of this order and on receipt of same petitioner shall join the transferred post immediately.

With the aforesaid directions and observations, the writ petition stands disposed of.

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.)