

18.06.2024

Court : 08
Item : DL-12
Matter : MAT
Status : DO
Bench ID : 266048
Transcriber : NANDY

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

MAT 2092 of 2022
with
CAN 1 of 2024
CAN 2 of 2024

The State of West Bengal & Ors.
Vs.
Soumitra Das & Ors.

Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Pinaki Dhole, Advocate
Mr. Rezaul Hossain, Advocate
..... for the Appellant/State
Mr. Saibal Acharya, Advocate
.....for the Respondent
Mr. Prahlad Chandra Ghosh, Advocate
Mr. Subir Hazra, Advocate
.....for the Writ-Petitioner/Respondent No. 1

1. The writ-petition filed by the respondent no. 1 was disposed of directing the District Inspector of Schools (SE), Malda to approve the appointment of the writ-petitioner as a regular Assistant Teacher in the sanctioned vacancy within three months from the date of communication of the order.
2. It was observed by the Single Bench that the appointment of the writ-petitioner/respondent was irregular in terms of the judgment rendered by the Constitutional Bench of the Apex Court in the case of *The State of Karnakata & Ors. Vs. Uma Devi (III)* reported in *(2006) 4 SCC 1*.
3. The instant appeal is taken out against the

order of the Single Bench passed on 06.04.2017 after a considerable lapse of time with an application for condonation of delay.

4. Mr. Prahlad Chandra Ghosh, learned Advocate appearing for the writ-petitioner/respondent taking the responsibility on his shoulder submits that he had a consultation with his client who has instructed him as well as the Advocate-on-record of the writ-petitioner to give consent for condonation of delay. He further submits that he has also been instructed by his client that the impugned order may be modified to the extent that instead of the direction for approval by the District Inspector of Schools to his irregular appointment to the post of Assistant Teacher, the District Inspector of Schools may be directed to consider the said application within the stipulated time.
5. Mr. Mukherjee, learned Additional Government Pleader, appearing for the appellant, accepts the aforesaid stand taken by the writ-petitioner/ respondent and further consented the disposal of the instant appeal in tune of the aforesaid submission.
6. Since the parties have consented for condonation of delay, the same is hereby condoned and the application being **CAN 2 of 2024** is **disposed of**.
7. The appeal may be registered formally.
8. Furthermore, the writ-petitioner/respondent

was conscious to the law that Writ of Mandamus in such manner cannot be issued in view of the Constitution Bench decision in Uma Devi and instructed his Counsel for modification of the impugned order to the effect that the District Inspector of Schools being the competent authority to grant approval, may be directed to consider the Writ of Mandamus issued for his application.

9. We, therefore, modify the order to the extent that the District Inspector of Schools (SE), Malda, is directed to consider the said application/ representation by which the writ-petitioner prayed for approval to the post of an Assistant Teacher within three weeks from the date of communication of this order, if necessary, after giving an opportunity of hearing to all concerned.
10. With these observations, the appeal being **MAT 2092 of 2022** and the connected application being **CAN 1 of 2024** are **disposed of**.

(Harish Tandon, J.)

(Prasenjit Biswas, J)

