

**CALCUTTA HIGH COURT IN THE CIRCUIT BENCH
AT JALPAIGURI**

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23.12.2024
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WPA 944 of 2024

**Sri Anima Prakash Baa
Vs.
The State of West Bengal & Ors.**

**Mr. Kalyan Chakraborty
...for the petitioner
Mr. Subir Kumar Saha, Ld. AGP
Ms. Protusha Duta Chowdhury
...for the State**

**Mr. Arjun Chowdhury
...for the school authority**

Matter is heard in presence of the learned advocates representing the petitioner, authorities of St. Joseph High School (HS), District-Alipurduar (hereinafter referred to as the 'said school') and State-respondents. On hearing the learned advocate representing the petitioner it appears that though challenge has been thrown to the reasoned order dated 14th February, 2024 issued by the Secretary of the said school but prayer has been couched in this writ petition for giving direction upon the said school authority to appoint the petitioner as an assistant teacher in Political Science against a sanctioned vacancy. However, it has been submitted on behalf

of the petitioner that he was appointed as casual teacher to work for a limited period which is also reflected from the impugned order dated 14th February, 2024 passed by the Secretary of the said school.

State-respondents as well as said school authority are represented by learned advocates. It has been submitted on behalf of the said school authority that petitioner at present is not attending the school and he discontinued his service being an assistant teacher of the said school from 2018 onwards. It is also submitted that initial appointment of the petitioner in the school as an assistant teacher was dehors the recruitment rules and without following the selection procedure as contemplated by the relevant Government circular which is applicable in case of minority aided institution.

Such stand taken on behalf of the said school authority is supported by the learned advocate representing the State-respondents.

Having considered the respective submissions made on behalf of the parties and taking note of the nature of the prayer couched in this writ petition it appears since petitioner's initial appointment as an assistant teacher in the said school was dehors the

recruitment rules he does not have right to pray for issuance of mandamus for his appointment substantively as an assistant teacher against the sanctioned post.

Since petitioner's appointment was made not following the recruitment rules no enforceable right accrues in favour of the petitioner which is required to be protected on issuing necessary directions upon allowing this writ petition. In this regard reliance is placed on the judgment of the Hon'ble Supreme Court reported in **(2006) 4 SCC 1 (The Secretary, State of Karnataka & Ors. vs. Uma Devi (3) & Ors.)**.

Hence, the writ petition stands dismissed.

However, this order shall not preclude the petitioner to offer his candidature when the said school authority will initiate selection process afresh for filling up the post of assistant teacher in Political Science provided petitioner is eligible for making such application

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

(Saugata Bhattacharyya, J.)