

OD 17

WPO/206/2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KRANTI KUMAR UPADHYAY AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE RAI CHATTOPADHYAY
Date: 8th February, 2024.

Appearance:
Mr. Anjan Bhattacharya, Adv.
Ms. Anita Shaw, Adv.
...for the petitioners

Mr. Nayan Rakshit, Adv.
...for the respondent no.5

The Court: The writ petitioner is a teacher of the school, namely, Sree Jain Swetamber Terapanthi Vidyalaya (Boys), H.S. since 01.10.2007. He has been confirmed and subsequently, his name has been recommended to the District Inspector of Schools (SE), Kolkata for approval.

The first round of litigation arose due to non-consideration by the said respondent, of the recommendation for approval of the writ petitioner and this Court directed for due consideration of the petitioner's case, by the concerned respondent.

The resultant order is dated 19.11.2018, which is impugned in this case. Mr. Bhattacharya who is representing the writ petitioner, refers to the impugned order, to say that the only ground on which the respondent authority, that is, the District Inspector of Schools (SE), Kolkata has rejected the prayer of the writ petitioner, is that the managing committee not approaching the said respondent for the purpose with appropriate documents. According to Mr. Bhattacharya, the stand of the school authority is, however, absolutely different, that is, all the necessary documents required for the purpose, have already been sent by the school authority for consideration of the said respondent. In light of the facts and circumstances as above, he seeks appropriate order for redress of his client.

The State Respondent is not present. No affidavit-in-opposition has also been filed on behalf of the State Respondent. The same prompts this Court to find that the State respondent is not interested in contesting this matter. Hence, the matter is taken up in absence of the State Respondent.

The school authority is being represented by Mr. Nayan Rakshit, learned advocate. He has relied on the affidavit-in-opposition submitted on behalf of the school authority and categorically submits that the school authority has forwarded recommendation of name of the present petitioner along with all necessary documents to the concerned respondent, that is, the District Inspector of Schools (SE), Kolkata, on 11.2.2020. He further submits that, so far as the school authority is concerned, no further action can be contemplated to be done by it, in the matter.

So far as the eligibility of the writ petitioner in terms of the experience as well as performance, there would not be any difficulty for recommending his

name for approval in the said school. Hence, it is found that vide letter dated 11.2.2020, the school authority has recommended the name of the writ petitioners for approval. Along with the same, several documents in support the relevant criteria with respect to the present petitioner, like about his qualification, experience and performance, have also been sent.

It appears from the chronology of dates that the recommendation along with the documents have been sent by the school authority much after the date of issuance of the impugned order by the respective respondent, that is, on 19.11.2018. Therefore, it is evident that on the date of passing the impugned order, the respondent authority had no opportunity or scope to consider the recommendation for the petitioners by the school authority, for approval, due to non-availability of supporting papers. That way, the order impugned may not call for any interference.

Be that as it may, since the school authority sent its recommendation along with all documents and the same is in custody of the concerned respondent at present, that is, the District Inspector of Schools (SE), Kolkata, for humanitarian reasons, it is found proper that the said respondent considers the petitioner's case afresh.

In that view of the matter, the impugned order dated 19.11.2018 is set aside.

The District Inspector of Schools (SE), Kolkata, is directed to immediately consider the recommendation of the respondent school, sent vide the letter dated 11.2.2020 and the documents enclosed with the same and pass a reasoned order.

In doing so, the concerned respondent shall afford opportunity of hearing to the writ petitioner. The respondent authority shall conclude the entire exercise as mentioned above, within a period of four weeks from the date of communication of this order.

The writ petition, being WPO/206/2021, is accordingly disposed of.

(RAI CHATTOPADHYAY, J.)