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WPA 3213 of 2025

Ashok Kumar Sarkar
Vs.
State of West Bengal & Ors.

Mr. Kamalesh Bhattacharjee, Sr. Adv.
Mr. Rezaul Hossain
Mr. Parvez Hossain
....for the petitioner

Mr. Biswabrata Basu Mallick, learned AGP
.... for the State

Ms. Koyeli Bhattacharyya
.... for the WBBSE

Mr. Ekramul Bari, Sr. Adv.
Mr. Nirupam Dhali
.... for the respondents no. 8.9 & 10

Mr. Siddhartha Sankar Mandal
Ms. Sarmistha Dhar
..... for the respondent no. 11

The present writ petition pertains to a dispute arising out of an appointment to the post of Teacher-in-Charge at Maraikura Indramohan Vidyapith, Uttar Dinajpur (hereinafter referred to as the “said school”).

By filing the present writ petition, the petitioner has assailed a notice dated 30th January, 2025, issued by the President of the school, whereby it was informed that the private respondent has been selected to act as Teacher-in-Charge of the said school upon the retirement of Binay Sarkar from the said post with effect from 1st February, 2025. The petitioner has further prayed for issuance of a writ of

mandamus directing the concerned school authority not to accord approval to the appointment of the private respondent as Teacher-in-Charge of the said school.

Mr. Bhattacharjee, learned Senior Advocate appearing for the petitioner, submits that the petitioner is a senior teacher of the said school. Referring to the seniority list, he points out that with reference to the date of joining the school, the petitioner occupies the second position therein whereas the private respondent stands at the 31st position in the said list. He further contends that, despite the petitioner being senior to the private respondent, his rightful appointment to the post has been unlawfully denied on the basis of certain fabricated documents.

Relying on an unreported decision of a co-ordinate Bench of this Court in W.P. 13726(W) of 2015, he submits that in that case, the Bench directed the concerned school to appoint a teacher to the post of Teacher-in-Charge based on seniority-cum-merit, in the absence of a regular Headmaster.

He contends that seniority cannot be completely disregarded and alleges that the private respondent, being a *blue-eyed boy* of the Managing Committee, has been unduly favoured for the post. He submits that such an appointment cannot be sustained in law and prays for a direction upon the Managing Committee to appoint the petitioner to the said post.

Mr. Bari, learned Advocate appearing for the Managing Committee of the school, vehemently opposes the submissions advanced by Mr. Bhattacharjee. He contends that seniority is not the sole criterion to be taken into account while making an

appointment to the said post. He further submits that the appointment in question is only a stop-gap arrangement, to continue until a regular Headmaster is appointed to the school. He also asserts that, as on date, there is no specific rule governing such appointment.

He further points out that although the petitioner is the senior-most teacher, a criminal case is presently pending against him, and certain girl students of the school have lodged complaints regarding his conduct. It has been alleged that the petitioner made objectionable remarks towards the girl students and indulged in inappropriate behaviour, including acts that seriously compromised their privacy. In view of such complaints, the Managing Committee resolved not to appoint the petitioner to the said post.

Relying on the decision reported in (2006) 7 SCC 680 (*Sushmita Basu & Ors. vs. Ballygunge Siksha Samity & Ors.*), he contends that a teacher is regarded as a 'guru' who shapes future citizens by imparting not only knowledge but also a sense of duty, righteousness, and dedication to the welfare of the nation, along with other commendable qualities. Therefore, a teacher against whom such allegations have been made by girl students cannot be appointed as Teacher-in-Charge in any educational institution.

He further submits that since the school authority has entrusted the responsibility of acting as Teacher-in-Charge of the said school to the private respondent until the post is filled by a regular headmaster, the private respondent has been rendering his services to the school diligently and with devotion.

He also submits that a letter from the Deputy Secretary (Academic) & S.P.I.O., West Bengal Board of Secondary Education, addressed to the President of the said school in response to an application filed under the relevant provisions of the RTI Act, 2005, clarified that there is no statutory rule specifying qualifications, seniority, or working experience required for appointment or selection as Teacher-in-Charge of the said school recognized by the school authority.

In reply, Mr. Bhattacharjee submits that it is the custom, followed for a considerable length of time, that the seniormost teacher who is also a reputable seniormost teacher is ordinarily appointed to that post in the said school.

Heard the learned Advocates for the parties and perused the materials on record.

Undoubtedly, following the retirement of the previous Teacher-in-Charge, the post of Teacher-in-Charge was vacated. It is also an admitted position that the petitioner is one of the seniormost teachers of the school. However, from the letter and/or communication dated 12th August 2025, of the Deputy Secretary (Academic) addressed to the President of the School, it is clear that there is no statutory rule prescribing qualification, seniority, or working experience for appointment to the post of Teacher-in-Charge in any school recognized by the Board. The petitioner cannot deny that the appointment is merely a stop-gap arrangement made until a regular appointment is made to the post of Headmaster in the school. Therefore, it is apparent that seniority cannot be the sole criterion for appointment to that post.

Undoubtedly, the Court, in exercise of its writ jurisdiction, can compel public authorities to perform a statutory duty, provided the person seeking such enforcement establishes a legal right to demand its performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the Court. In the absence of any specific rule, no such right can be said to have accrued to the petitioner so as to compel the Managing Committee to grant him appointment merely on the ground of seniority.

A criminal case has been registered against the present petitioner, which is still pending final adjudication. The school has also received complaints from girl students of the said school, and the allegations have a bitter test.

Admittedly, students always look up to their teachers in all respects. The teaching profession is a noble one, with teachers playing a vital role not only in imparting education but also in shaping the character of students, who are the future of the country.

Taking note of these facts, the Managing Committee of the said school decided not to appoint the petitioner as Teacher-in-Charge. Considering the facts and circumstances of the case and having regard to the submissions made on behalf of the respective parties, I do not find any infirmity in the decision of the Managing Committee of the said school.

In view thereof, I am of the considered opinion that no interference is warranted in the present writ petition. Accordingly, the same is dismissed.

There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)