

ML 13
03.03.2025
Ct. No. 18
adeb

W.P.A. 3335 of 2025

**Md. Safique Ahmed
Vs.
The State of West Bengal & Ors.**

Mr. Samim Ahammed
Mr. Aniruddha Singh
Ms. Gulsanwar Pervin
...for the petitioner

Mr. Sirsanya Bandopadhyay
Ms. Tapati Samanta
Mr. Arindam Ghosh
...for the State

Mr. Sunit Kumar Roy
Ms. Susmita Mondal
...for the Madrasah Authority

Mr. Prosenjit Mukherjee
Ms. Madhurima Sarkar
...for the West Bengal
Madrasah Service Commission

Mr. Nadeem Sulaiman
...for the Madrasah Board

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

By presenting this writ petition, *inter alia*,
petitioner being an Assistant Teacher of Kharki
Islamia Senior Madrasah, North- 24 Parganas
(hereinafter referred to as said madrasah) has
questioned the authority of said madrasah in
appointing respondent no. 7 as Assistant
Superintendent. In support of such contention it is
submitted on behalf of the petitioner that recruitment
notice was issued on 13th October, 2023 wherein post

was notified as Headmaster/Headmistress/Assistant Superintendent. According to the petitioner for recruiting in the post of Headmaster/Headmistress or even Assistant Superintendent in a madrasah 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 needs to be followed which is applicable in case of filling up the post of Assistant Superintendent in a Government recognized aided madrasah. Therefore, it is the specific contention on behalf of the petitioner that said madrasah did not have the authority to fill up the post on initiating recruitment process rather it was the West Bengal Madrasah Service Commission being the appropriate authority to fill up the post. It has further been contended that requisite qualification for filling up the post of Assistant Superintendent as indicated in the relevant recruitment rules has not been adhered to while filling up the post.

Such contention raised in this writ petition has been opposed by the learned advocates representing the said madrasah, West Bengal Madrasah Service Commission and West Bengal Board of Madrasah Education as well as State-respondents.

It is submitted on behalf of the respondents that a prior permission was issued vide memo dated 26th September, 2023 by the District Inspector of Schools (SE) North 24 Parganas permitting the said madrasah authority to fill up the post of Assistant Headmaster/ Assistant Superintendent following recruitment rules being memo no. 1628-GA dated 10th July, 2002. It is submitted that based on such prior permission dated 26th September, 2023 said madrasah authority completed the selection process and panel prepared was approved by the concerned District Inspector of Schools (SE) vide memo dated 4th December, 2023. Subsequently, appointment letter was issued 13th December, 2023 and in terms of the same respondent no. 7 joined the post on 14th December, 2023. It is further submitted that based on joining of the respondent no. 7 after according approval of appointment of the panel, said respondent no. 7 has been discharging duty regularly from 14th December, 2023.

It is submitted on behalf of the West Bengal Madrasah Service Commission in reference to Rule 2(xvi) that the post is defined and post of Assistant Headmaster/Assistant Superintendent has been kept outside the purview of the said Rules of 2023. It is further submitted that District Inspector of

Schools (SE) has not made any departure by issuing prior permission dated 26th September, 2023 directing the said madrasah authority to follow recruitment rules as issued vide Government Circular dated 10th July, 2002.

Having considering the respective submissions made on behalf of the parties it appears that the petitioner is one of the assistant teachers of said madrasah who was aware of the Recruitment Notice dated 13th October, 2023 and who put signature on the notice whereby applications were invited by the said madrasah authority from the eligible teachers who could offer their candidature for the post of Assistant Superintendent of the said madrasah. Though it is submitted on behalf of the petitioner that he did not apply for the said post, therefore, he is not estopped from questioning the authority of the said madrasah to fill up the post of Assistant Superintendent since said exercise should have been made by the West Bengal Madrasah Service Commission not by the said madrasah authority. However, in consideration of the Recruitment Rules of 2023 it appears that “post” is defined under Rule 2(xvi) wherein post of Assistant Headmaster/Assistant Superintendent has been kept outside the purview of the said rules which is required to be followed for filling up other

posts in madrasah. In addition thereto, recruitment notice was issued by the madrasah inviting applications from the eligible candidates who are working as assistant teacher of the said madrasah far back on 13th October, 2023 and in spite of being aware of the said recruitment notice writ petition has been instituted on 11th February, 2025 and in the meantime selection process is concluded and selected person had joined the post and he is working for a considerable period of time. It needs to be recorded herein that the concerned District Inspector of Schools issued prior permission on 13th October, 2023 permitting the said madrasah authority to fill up the post and such prior permission remained unchallenged till the present writ petition has been filed thereby permitting the said madrasah authority to complete the selection process by appointing respondent no. 7 in the post of Assistant Superintendent.

It is too late in the day to question the authority of said madrasah to fill up the said post but that is not the sole ground to reject the contention of the petitioner as raised questioning authority of said madrasah to initiate selection process for recruiting Assistant Superintendent of madrasah. On perusal of the relevant Rules of 2023 it is found that the post of Assistant

Superintendent is not coming within the ambit of the definition of “post” as contemplated under Rule 2(xvi).

Hence, the writ petition stands dismissed.

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

(Saugata Bhattacharyya, J.)