

29.04.2025

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Ct.No.7

sdas

WPA 3442 of 2023

Md. Golam Mehbub

Vs.

The State of West Bengal & Ors.

Mr. Ziaul Islam

Mr. Muskaan Chowdhury

....for the petitioner

Mr. Manas Kundu

Md. Mansoor Alam

.... for the State

Mr. Koustava Ratan Chatterjee

.... for the respondent no. 4

The present writ petition has been filed questioning the justifiability of the decision of the Director of Madrasah Education not to release the petitioner's honorarium, as communicated to the Mukhya Shiksha Samprasarika, Soukat Ali Madrasah Shiksha Kendra, by the District Officer, Minority Affairs, vide letter dated 31.12.2021. The petitioner further prays for a direction to the concerned respondents to release his honorarium, which has been withheld since November 2021.

Briefly stated, the facts leading to the filing of the present writ petition are that in the year 1937, the residents of Village Dhawpara, District Nadia, established a High Madrasah with the objective of imparting education to the students of the locality. Since its inception, the Madrasah was managed and organized by a group of local individuals. In due course, they approached

the competent authority seeking formal recognition of the institution. On 3rd September 2008, the District Level Inspection Team (DLIT) conducted an inspection of the Madrasah and submitted a report.

Admittedly, the petitioner's name was not included in the said report as a member of the teaching staff. Subsequently, by an order issued under Memorandum No. 1268-ME dated 19th October 2010, the institution was converted into a Madrasah Shiksha Kendra (in short, MSK) with effect from 1st March 2010.

In the year 2010, the petitioner, along with another individual, Md. Asif Iqubal, was appointed as a teaching staff member of the Madrasah Shiksha Kendra (MSK). Since their appointment, both have been rendering continuous service to the MSK. However, pursuant to the communication dated 31st December 2021, the concerned authority stopped disbursing the petitioner's honorarium. The decision was based on two grounds: (i) the District Level Inspection Team (DLIT) report did not include the petitioner's name, and (ii) only one teacher can be retained in a single group, thereby rendering the petitioner's continued engagement impermissible.

Mr. Islam, learned advocate appearing on behalf of the petitioner, vehemently contends that the petitioner was appointed as an Assistant Teacher in Bengali. Drawing attention to the Memorandum dated 17th February 2011, issued by the District Officer, Minority Affairs (DOMA), Nadia, he submits that the petitioner's

appointment was duly approved by the competent authority. He further argues that the petitioner has rendered unblemished service to the said Madrasah Shiksha Kendra for a considerable period, and the subsequent stoppage of honorarium payments is the result of an erroneous and arbitrary decision by the concerned authority. It is further submitted that the petitioner's livelihood and future are in jeopardy, and as such, immediate intervention of this Court is warranted. To bolster his argument, he places reliance upon two unreported decisions: one by the Hon'ble Supreme Court in Civil Appeal no. 3686 of 2022 (*Prabir Kumar Ghosh & Anr. Vs. State of West Bengal & Ors.*) and the other by a Coordinate Bench of this Court in W.P. no. 10966 (W) of 2005 (*Sri Dinesh Chandra Karjee & Ors. vs. State of West Bengal & Ors.*).

Mr. Kundu, learned advocate appearing on behalf of the State, has refuted the contentions advanced on behalf of the petitioner. He submits that, admittedly, the petitioner's name did not appear in the District Level Inspection Team (DLIT) report, as the petitioner was not a member of the teaching staff of the concerned Madrasah at the relevant time. Referring to the same Memorandum dated 17th February 2011, he contends that the petitioner was appointed by the Secretary to address an emergent situation, and that the said appointment was provisionally approved for a period of two years with effect from 1st March 2010. He further argues that, upon expiry of the

said period, there exists no document or order regularizing and/or legitimizing the continuation of the petitioner's engagement in the said post.

He further submits that the petitioner continued in the said post without formal approval, and is now asserting a claim to be treated as a permanent teaching staff member of the Madrasah Shiksha Kendra.

Referring to an unreported decision of a Coordinate Bench in WPA 4143 of 2024, he contends that a similarly situated individual, namely Md. Asif Iqbal, had submitted a representation before the competent authority raising an identical grievance regarding the non-payment of his honorarium. However, despite receipt of the said representation, no action was taken thereon, which compelled Md. Iqbal to file a writ petition. The said writ petition was disposed of with a direction upon the concerned respondents to take an appropriate decision on his representation.

In compliance with the said order, the competent authority rejected the prayer of Md. Asif Iqbal for payment of honorarium and other service-related benefits, on the ground that his name did not appear in the DLIT report dated 3rd September 2008. Accordingly, the authority held that his subsequent continuation in the post could not be considered valid or lawful. It is further submitted that the said decision was challenged by Md. Iqbal in a subsequent writ petition, being WPA 4143 of

2024, which was disposed of by affirming the decision of the authority, holding that Md. Iqbal was not entitled to any benefit arising from such appointment. On that basis, it is contended that the present petitioner likewise cannot claim any benefit from his continued engagement, if any, as the same is without legal sanction.

Heard the learned advocates representing the respective parties and perused the materials on record.

It is an admitted position that the Madrasah was inspected by the District Level Inspection Team (DLIT) in the year 2008, and the report prepared pursuant thereto did not contain the petitioner's name as a member of the teaching staff. The petitioner was subsequently engaged in the institution in 2009. However, there remains ambiguity regarding the specific group under which he was appointed—whether in the Social Science Group or the Language Group. As noted earlier, the Memorandum dated 17th February 2011 indicates that the petitioner's appointment was provisionally approved for a period of two years with effect from 1st March 2010. The petitioner, however, has failed to produce any further documentation or official order to demonstrate that his appointment was subsequently confirmed or approved by any competent authority or he was allowed to continue in the post with approval by any authority.

As observed earlier, the concerned authority has justified the stoppage of the petitioner's honorarium on

the grounds that the petitioner's name was not included in the DLIT report, and his subsequent engagement was not approved by any competent authority after the expiry of his initial two-year engagement, as outlined in the Memorandum dated 17th February 2011. Furthermore, a similar issue raised by Md. Iqbal was rejected by the authority, and the decision was upheld by a co-ordinate Bench of this Court. In light of this, I find no reason to disagree with the decision of the co-ordinate Bench. I have carefully considered the decisions cited by the petitioner, but I find those cases distinguishable on the facts.

Accordingly, I am of the considered opinion that no interference in this writ petition is warranted.

The writ petition is, thus, dismissed.

However, there will be no order as to costs.

(Partha Sarathi Chatterjee, J.)