

73 & 74
02.05.2025
Court No. **25**
D.Hira

WPA 4621 of 2021

Debasish Saha

Vs.

The State of West Bengal & Ors.

With

WPA 4618 of 2021

Purnima Pramanik

Vs.

State of West Bengal & Ors.

Mr. Aditya Mondal.

... for the petitioners

Mr. Anindya Bose,

Mr. Mridul Biswas.

... for the respondent

Nos. 5 & 6

Mr. Sanjib Das.

... for the State

1. The writ petitions being WPA No. 4621 of 2021 and WPA No. 4618 of 2021 are taken up together for convenience of discussion and decision as the subject matters are same.
2. The petitioners are the contractual appointees as Assistant Teachers in the school with effect from December 8, 2008. Their appointment letter dated December 8, 2008 speaks that they have been appointed as an Assistant Teacher in Social Science Group on temporary basis on condition that their appointment will be regularized later, in additional/normal post/posts, subject to approval of the District Inspector of Schools, Secondary Education, Malda.

- 3.** Mr. Aditya Mondal, learned counsel appearing for the petitioners has submitted that petitioners' appointment in the school has been in terms of Section 4 of the West Bengal Schools (Control of Expenditure) Act, 2005. He submits that petitioners' since thereafter, have been continuously working in the school and have been assigned duties of examiner by the West Bengal School Council of Higher Secondary, North Bengal Region.
- 4.** For the reasons as above, the petitioners have sought in this writ petition for setting aside of the impugned order dated October 15, 2020 passed by the District Inspector of Schools, Secondary Education, Malda rejecting their approval in service and have prayed for approval/regularize of their service as the Assistant Teacher of the school.
- 5.** On careful perusal of the impugned order dated October 15, 2020, it appears that the said respondent District Inspector of Schools, Secondary Education, Malda has held therein that the petitioners/the School Authority has not been able to provide the sufficient documents that a regular appointment procedure have been undertaken in case of appointment of the petitioners, in accordance with law.
- 6.** Upon such finding, the said authority has further mentioned in the impugned order that necessary conditions as provided under the West Bengal Schools (Control of Expenditure) Act, 2005 are not complied with.

- 7.** For the reasons as above, it has turned down the petitioners' prayer for approval/regularization.
- 8.** Mr. Sanjib Das, learned counsel for the State has raised objection as to the contentions and prayer of the petitioners and support with respect to the impugned order of the District Inspector of Schools dated October 15, 2020.
- 9.** The School Authority has however, expressed willingness to produce the documents regarding the selection procedure of the petitioners as found to be not on record by the District Inspector of Schools in the impugned order.
- 10.** It appears that admittedly, the petitioners have been appointed on December 8, 2008, though not being recommended by the School Service Commission, which is the only recommending body for appointment of Assistant Teachers in the school, since after its promulgation from the year 1997.
- 11.** After perusal of the provision under Section 4 (ii) of the West Bengal Schools (Control of Expenditure) Act, 2005, it reveals that the School Authority shall not generally be empowered for appointment or engagement of any teacher or non-teaching staff in the school. Though in case the School Authority intends to fill up a vacancy of a teacher, which has caused due to leave or deputation, it may, with previous sanction of the State Government, appoint teacher for a period not exceeding one year.
- 12.** Therefore, it reveals that the West Bengal Schools (Control of Expenditure) Act, 2005 has not provided in

any manner for appointment of regular, permanent teachers in the school.

- 13.** The petitioners would not fall within the four corners of the provision, as contained in Section 4 (ii) of the Act of 2005, in so far as neither they have been appointed in place of a teacher who was on leave nor on deputation. Also that, after coming into force the West Bengal School Service Commission Act, 1997, no regular appointment in a school would be made excepting recommendation of the School Service Commission, in that regard.
- 14.** Admittedly, the petitioners are not appointed with such recommendation. There would not be any rules, regulations or circular under which their appointment can be showed to have been guided or conducted.
- 15.** In such circumstances and for the reasons as above, the Court is unable to find any infirmity or illegality in the order passed by the District Inspector of Schools impugned in this case, dated October 15, 2020 and is not inclined to interfere with the same.
- 16.** Hence, the writ petitions being WPA No. 4621 of 2021 and WPA No. 4618 of 2021 are dismissed.
- 17.** Since no affidavit has been called for in this case, allegations contained in the writ petition are deemed to be denied.
- 18.** Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)