

08.04.2025
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Ct.No.7
sdas

WPA 6254 of 2021

Sreemoyee Dutta
Vs.
The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
Ms. Sutapa Dutta
Mr. Saibal Kumar Dasgupta
Ms. Amita Shaw
...for the petitioner

Mr. Saptangshu Basu, Sr. Adv.
Mr. Debapriya Gupta
... for the respondents no. 4 & 5

Affidavit-in-opposition filed on behalf of the respondent nos. 4 & 5 is taken on record.

Mr. Bhattacharya, learned advocate representing the petitioner contends that the petitioner does not wish to submit any reply thereto.

The present writ petition has been preferred challenging a reasoned order issued and communicated to the petitioner by the District Inspector of Schools (S.E.), Calcutta, (hereinafter referred to as D.I.), under a Memorandum dated 19th February, 2021 refusing to approve her appointment in the vacant post of the relevant group in the school.

The petitioner joined the school, namely, Balika Siksha Sadan, which is a commonly called as a D.A. getting school, in 2012. The petitioner's appointment

was approved by the Managing Committee of the school subsequently. However, since the petitioner has not been placed against the sanctioned vacancy, she is unable to draw any D.A. from the State as per the applicable Rule.

Mr. Bhattacharya submits that the school authority, by adopting a discriminatory practice, forwarded the papers and documents of one teacher who is junior to the petitioner and withheld the petitioner's documents. It is also submitted by him that this incident prompted the petitioner to approach this Court with a writ petition, WPA 4540 of 2020, which was disposed of by a co-ordinate Bench of this Court by an order dated 17th December, 2022 directing the D.I. concerned to consider the petitioner's grievances as ventilated through her representation dated 3rd July, 2019. Additionally, the school authority was directed to produce all the relevant documents pertaining to the petitioner's case to enable the D.I. concerned to resolve the issue.

Meanwhile, the school authority raised an issue that the present petitioner is not a disciplined teacher and even a show-cause notice was also issued against her compelling the petitioner to challenge the show-cause notice by preferring a writ petition being WPA 987 of 2024, which was disposed of by a coordinate Bench of this Court by setting aside the enquiry notice dated 25th February, 2025 that was issued based on the

show-cause notice letter dated 16th March, 2022. However, school authority was granted liberty to take steps in accordance with law upon issuance of a formal charge-sheet or supplying all relevant documents if the school authority finds it is a fit case to initiate proceeding against the petitioner.

It is further submitted on behalf of the petitioner that though the issue of discrimination was very much brought to the notice of the co-ordinate Bench at the time of hearing of the writ petition being WPA 4540 of 2020 and the D.I. concerned was directed by that Bench to consider the petitioner's grievances ventilated in her representation but D.I. concerned has rejected the petitioner's prayer for approval of her appointment only on the ground that the school authority did not place in against the sanctioned vacancy by adopting a resolution.

Mr. Basu, learned senior advocate representing the school authority, submits that either in her the representation submitted by the petitioner before the D.I. or in the present writ petition, no case regarding the discrimination has been made out by petitioner. He also submits that the petitioner is an undisciplined teaching staff of the school and the school is also going to take disciplinary action against her in compliance with the order passed in WPA 987 of 2024.

Undeniably, the issue relating to any disciplinary action against the petitioner is not the subject matter of

this writ petition. The core issue before this Court is that whether the rejection of the petitioner's prayer for approval of appointment by D.I. concerned on the ground that the school authority did not place her in the sanctioned post by adopting the resolution is justified.

Admittedly in the order passed by a co-ordinate Bench of this Court in WPA 4540 of 2020, it was specifically noted that the petitioner sought to make out a case that the school authority allegedly by adopting a discriminatory practice forwarded the documents of the respondent no. 7 thereto, who was the junior to the petitioner. It is admitted fact that the school authority did not place the petitioner in sanctioned vacancy. The petitioner's specific grievances ventilated in the writ petition, WPA 4540 of 2020 was that by adopting a discriminatory practice, the school authority forwarded the documents of a teacher who was junior to the petitioner. There is no reflection that this issue which was petitioner's main grievance was addressed in the order passed by the D.I. concerned. It is condign to note that an administrative decision taken ignoring the relevant materials or based on irrelevant consideration cannot be allowed to stand.

Therefore, I am of the considered opinion that the order passed by the D.I. concerned which is under challenge in the writ petition was passed not in conformity of the order passed in WPA 4540 of 2020. Accordingly, for this reason, the order passed by the

D.I. concerned (Annexure- P7 to the writ petition) is set aside.

D.I. concerned is directed to consider the grievances of the petitioner and address the issue of discrimination which was raised by the petitioner in her earlier writ petition strictly in terms of the order passed in WPA 4540 of 2020. Such decision shall be taken after affording an opportunity of hearing to the petitioner as well as the representative of the petitioner.

It is clarified that if the decision is taken in favour of the petitioner, the D.I. shall take next follow-up steps in accordance with law and if the decision goes against the petitioner, a reasoned order shall be passed which must be communicated to her.

The entire exercise shall be carried out within a period of eight weeks from the date of receipt of the copy of this order.

With these observations and order this writ petition is, thus, disposed of.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)