

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Shampa Dutt (Paul)

RVW 84 of 2025

With

IA No.: CAN 1 of 2025

IA No.: CAN 2 of 2025

Motiur Rahaman

Vs.

The State of West Bengal & Ors.

In

FMA 387 of 2010

Motiur Rahaman

Vs.

The State of West Bengal & Ors.

For the Appellant/ Applicant : Mr. Robiul Islam, Advocate
Mr. Masooq Rahman, Advocate

For the State respondents: Mr. Jayanta Samanta, Ld. Jr. Govt. Advocate
Ms. Indumouli Banerjee, Advocate

For the Respondent no.10 : Mr. Gausul Alam, Advocate

Hearing & Judgment on : July 18, 2025

DEBANGSU BASAK, J.:-

1. IA No.: CAN 1 of 2025 is an application for condonation of delay of 135 days in making and filing the application for review.
2. Respondents are represented.

3. For the ends of justice and considering the averments made in the application for condonation of delay, we deem it appropriate to condone the delay in making and filing the memorandum of review.
4. IA No.: CAN 1 of 2025 is allowed.
5. IA No.: CAN 2 of 2025 is an application seeking appropriate relief in the review proceedings.
6. By consent of the parties, the review proceedings are taken up for final hearing on the basis of the papers made available to Court.
7. Review applicant seeks review of the order dated August 2, 2024 passed in FMA 387 of 2010 with ASTA 1 of 2010 (Old No.ASTA 59 of 2010).
8. By the order under review dated August 2, 2024, the Division Bench noted that, a stale claim was sought to be resurrected in the appeal when in an earlier round of litigation, the review applicant could not succeed in obtaining a favourable order.
9. After a detailed analysis of the factual scenario and the law on the subject, the Coordinate Bench was pleased to dismiss the appeal.
10. Learned Advocate appearing for the review applicant submits that, the Coordinate Bench was incorrect in appreciating the material facts and consequently arrived at a wrong finding as recorded in the order under review. He submits that, the private respondent did not apply within the time prescribed for the application for consideration of the candidature of such private respondent. Moreover, the private

respondent did not apply before the designated authority for such purpose. Consequently, when there was no application for appointment in the eye of law as invited by the selection process, the same could not be considered by the selectors as a valid application. The Coordinate Bench erred in appreciating such fact. Therefore, there is error apparent on the face of the record.

11. The respondents are represented.
12. A selection process was initiated for the purpose of appointment of a Samprasarak in Bengali and History in Char Bathanpara Madhyamik Siksha Kendra (MSK). The private respondent applied for such post. On the plea that the private respondent was not in the zone of consideration despite possessing requisite qualification in terms of such notice inviting the selection process, the appellant/review applicant, Motiur Rahaman, was granted the appointment.
13. Grant of appointment to the review applicant, Motiur Rahaman, was challenged by the unsuccessful candidates in such selection process in WP 6475 (w) of 2008. The review applicant was a party to such writ petition. Such writ petition was disposed of on May 22, 2009 with the categorical finding that the appointment was wholly illegal and directed the District Magistrate to take a decision. Pursuant to such direction, District Magistrate passed an order holding that, the appointment of Motiur Rahaman was wholly illegal. The District Magistrate also directed the private respondent to be appointed as Samprasarak in the

- respective subject and further directed not to disburse any honourarium or remuneration to Motiur Rahaman.
14. In such proceedings before the Writ Court, Motiur Rahaman who is the review applicant before us took several objections including the objection that the application filed by one of the appointees was received by the authority beyond the period provided in the notification and, therefore, his candidature at the very inception was liable to be thrown out of the zone of consideration.
 15. Order of the District Magistrate was challenged by the review applicant before the High Court. Learned Single Judge after considering the evidence on record found that, the person appointed possessed a better academic record than the review applicant. Learned Single Judge held the order of the District Magistrate to be just, in accordance with the directions passed by the Court and refused to interfere therewith.
 16. The review applicant thereafter approached the High Court and contended that, one of the appointees was already working as a para-teacher in different school and, therefore, cannot be applied for the post of Samprasarak nor can he declare himself as unemployed. The Coordinate Bench by the order under review considered such stand of the review applicant. The Coordinate Bench did not find any justification of the stand of the review applicant that one of the appointees was denuded of offering his candidature after discharging duties as a para-teacher in another school. The Coordinate Bench did

not accept the contention that such person was not unemployed. No document to such effect was produced before the Coordinate Bench.

17. Essentially, what the review applicant desires is that, we sit in appeal over the order dated August 2, 2024 passed by the Coordinate Bench. The review applicant did not succeed in the appeal. Points sought to be canvassed before us were canvassed before the Coordinate Bench. Coordinate Bench gave adequate and proper reasons for arriving at the finding as recorded in the order dated August 2, 2024. Such findings cannot be said to be an error apparent on the face of the record or is based on any materials which can be said to be erroneous.
18. In such circumstances, we find no ground to allow the review.
19. **RVW 84 of 2025** and **IA No.: CAN 2 of 2025** in FMA 387 of 2010 are disposed of without any order as to costs.

[Debangsu Basak, J.]

20. I agree.

(AD)

[Shampa Dutt (Paul), J.]