

1.
(DL)

01.07.2025
Ct. No. 18
(ARPAN)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
(Appellate Side)

W.P.A. 10714 OF 2025

Sk. Mustak Ali

Vs.

The State of West Bengal & Others

Mr. Saptanshu Basu, Sr. Adv.
Mr. Soumen Kumar Dutta, Adv.
Mr. Subham Dutta, Adv.

...for the Petitioner

Mr. Sirsanya Bandopadhyay, Sr. S.C.
Ms. Tapati Samanta, Adv.

...for the State

Mr. Nadeem Sulaiman, Adv.

...for the Madrasah Board

1. Affidavit-of-service filed on behalf of the petitioner has been taken on record.
2. In the writ petition memo dated 8th May, 2025 issued by the District Inspector of Schools (S.E.), Birbhum being respondent no.6 is under challenge whereby appointment of the petitioner being an approved Assistant Teacher of Metekona Moulana Abu Taher Sr. Madrasah, Birbhum (hereinafter referred to as '*said Madrasah*') is cancelled.
3. Mr. Basu, learned Senior Advocate representing the petitioner submits though memo dated 8th May, 2025 is issued by the respondent no.6 but under the relevant provisions of the Management of Recognized non-Government Madrasahs (Aided and Unaided) Rules, 2002, respondent no.6 is not authorized to

terminate or dismiss service of approved teaching and non-teaching staff of the madrasah.

4. Attention of this Court has been drawn to the resolution of the Managing Committee of the said Madrasah dated 10th March, 2025 whereby explanation was offered by the Managing Committee regarding petitioner's engagement in other institutions during service period of the petitioner as Assistant Teacher of the said Madrasah. It is contended that while taking decision by issuing memo on 8th May, 2025 there is non-application of mind on the part of the respondent no.6 since resolution of the Managing Committee dated 10th March, 2025 was not taken into consideration.
5. In furtherance thereto, reliance is placed on the order of a Co-ordinate Bench dated 5th September, 2024 passed on a writ petition being WPA 589 of 2024 wherein the Co-ordinate Bench set aside steps taken against the petitioner and granted leave to the authorities to take steps, in accordance with law, if it is found necessary.
6. West Bengal Board of Madrasah Education is represented by learned advocate who has submitted that the Managing Committee of the said Madrasah at the time of adopting resolution on 10th March, 2025

was a defunct one. Therefore, no credence should be given to the said resolution dated 10th March, 2025.

7. Mr. Bandopadhyay, learned Standing Counsel representing the State respondents has made submission in order to defend the order passed by the respondent no.6 as it emanates from memo dated 8th May, 2025. It has been submitted that petitioner cannot discharge duty in two different institutions at the same time which was the basis for passing such memo cancelling appointment of the petitioner.
8. In consideration of the respective submissions made on behalf of the parties, this Court finds that petitioner was appointed as an approved Assistant Teacher in the said Madrasah with effect from 10th December, 2015 and abruptly service of the petitioner was terminated *vide* memo dated 8th May, 2025 by the respondent no.6.
9. At first blush it appears that memo dated 8th May, 2025 is devoid of reasons manifesting non-application of mind while taking decision by the respondent no.6 since resolution of the Managing Committee of the said Madrasah dated 10th March, 2025 was not taken note of.

10. In addition thereto question arises for consideration whether respondent no.6 being the concerned District Inspector of Schools (S.E.) is empowered to terminate/cancel appointment of the petitioner, who was working as an approved Assistant Teacher in the said Madrasah with effect from 10th December, 2015. Nothing is shown on behalf of the respondent authorities to substantiate the stand taken by the respondent no.6 as it appears from impugned memo dated 8th May, 2025 thereby cancelling the appointment of the petitioner in consideration of the fact that respondent no.6 is not found to be authorized to pass such order relating to cancellation of appointment of the petitioner.
11. In view of aforesaid discussions impugned memo dated 8th May, 2025 issued by the District Inspector of Schools (S.E.), Birbhum stands set aside.
12. However, this order shall not preclude the concerned respondent authorities to initiate appropriate proceedings against the petitioner, in accordance with law, if situation so warrants.
13. Writ petition stands disposed of.
14. However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)