

26.03.2025
Sl. No.4
Ct.3/ tkm

W.P.A. 11871 of 2021
[Shahbaz Anwar vs. State of West Bengal & Ors.]

Syed E Huda
Mr. Himadri Roy
Sk. Aptabuddin
Ms. Nabeela Akbar
... .. for the petitioner

Mr. T P Halder
... .. for respondent no. 5

Ms. Manika Pandit
... .. for the State

1. The petitioner has preferred the present writ petition challenging the order dated 26.11.2019 passed by the Additional Secretary, Minorities Affairs & Madrasah Education Department, Government of West Bengal.
2. The said impugned order was purportedly rendered in compliance with the directions issued by this Court in WPA 8763 (W) of 2019, wherein the petitioner has previously raised grievances regarding the alleged irregularities in the functioning of the trust which was responsible for running of Iqra Model Academy, SSK, particularly concerning the eligibility and appointment of respondent no. 5 as headmaster therein. The petitioner further alleged that the respondent no. 5 who is acting as a headmaster of the said school committed various

irregularities in the administration of the said academy.

3. After hearing the parties, this court vide order dated 1.7.2019 disposed of the said writ petition on the following terms :

“This writ petition is disposed of granting liberty to the petitioner, to approach the Secretary, Minorities Affairs & Madrasah Education Department, Government of West Bengal, by making a detailed representation containing his allegations with regard to the functioning of the school and the propriety of the respondent no. 5 to hold the post of headmaster in view of the allegations against him. Such representation will be made within two weeks from date.

Once the Secretary, Minorities Affairs & Madrasah Education Department, Government of West Bengal has received the representation from the petitioner, the same will be disposed of upon hearing the petitioner, the respondent no. 5 and the school authorities. The representation will be disposed of in accordance with law and communicated to all concerned.

The entire exercise will be completed within a period of six weeks from the date of receipt of the representation of the petitioner.

This court has not gone into the merits of the claim and counter claim of the petitioner and all points are kept open.”

4. Hence in compliance of the direction passed by this court in writ petition no. WP 8763(W) of

2019 the petitioner has preferred the representation dated 10.7.2019 before the respondent authority. In the said representation dated 10.7.2019 the petitioner had pointed out many instances which casts doubt upon the capacity of the respondent no. 5 to act as headmaster of the said school. Few of the major allegations raised by the petitioner against respondent no. 5 are as follows :

- (a) Respondent no. 5 got himself appointed as an Assistant Teacher and/ or headmaster of the said Iqra Model Academy, SSK by manufacturing the documents of the trust. In terms of the Trust Deed of IEWTC, a member of the Trust cannot be an employee of the Trust and vice-versa. But by placing incorrect information, the respondent no. 5 has been holding both the posts of Secretary of IEWTC as well as Assistant Teacher and/ or headmaster of the said Iqra Model Academy, SSK.
- (b) Respondent no. 5 had never worked as a teacher in Iqra Model Academy, SSK though he was appointed as a headmaster. It has been asserted that the respondent no. 5, who was originally appointed as a clerk, neither possessed the requisite

credentials nor ever discharged teaching duties at the institution. Additionally, it is contended that his concurrent role as a member of the Trust and an employee of the institution is legally untenable.

5. Respondent no. 3 had disposed of the said representation vide impugned order dated 26.11.2019. The operative portion of the said order reads inter alia as follows :

“The Petitioner and other respondents were heard on 30.07.2019 and 23.09.2019. It appears that in another Writ Petition No. 10426(W) of 2012 Hassan Jawaid Vs State of West Bengal & Ors , the Director of Madrasah Education, West Bengal in compliance of the order of the Hon’ble High Court, Calcutta dated 28.08.2012 passed a reasoned order in the matter of legality of the appointment of Ghulam Mohammad as Head Master of the said SSK vide Memo No. 2226-ME dated 20.12.2012. In the said reasoned order the Director, Madrasah Education, West Bengal has rejected the prayer of the petitioner. In his counter allegation, Mr. Ghulam Mohammad has said that Shahbaz Anwar had broken in to the school premises and ransacked the office for which a FIR was lodged in the local PS vide No. 101/17 dated 10.03.2019. From the submission of the petitioner and Mr. Gholam Mohammad, present Head Master of the school, it appears that there is a long standing

dispute regarding running of the aforesaid Sishu Shiksha Kendra (SSK). There lies claim and counter claim between the parties and several criminal cases are also pending. The principal prayer of the petitioner is to removal of the present Head Master, Mr. Golam Mohammad, which has already been decided by the appropriate authority, i.e. Directorate of Madrasah Education, West Bengal in the earlier writ petition filed by Hasan Jawaaid.

The present writ petition and prayer appears to be a fall out of the earlier rejection of the prayer by the Director of Madrasah Education, WB. In respect of allegation of financial impropriety committed by Mr. Gholam Mohammad, he has submitted the Auditor's Report for the years ending 31st March of 2017, 2018 & 2019 conducted by Ms. Pal & Roy, Chartered Accountants. On perusal of the said Audit Reports no adverse report is seen.

The petitioner has failed to prove his allegations regarding illegal appointment of Mr. Ghulam Mohammad as Head Master of the School. Hence his prayer is considered and rejected in view of the above discussion.

Thus the matter is disposed of. All concerned be informed accordingly."

6. Perusal of the said impugned order shows that the respondent authority rejected the petitioner's representation on the ground that in an earlier

writ petition, being W.P. No. 10426 (W) of 2012 filed by one Hasan Jawaaid, the respondent no. 3 herein had rejected the prayer of the then writ petitioner with regard to the legality of the appointment of the respondent no. 5 herein. The respondents proceeded on the assumption that the said writ petition, i.e, WPA 8763 (W) of 2019 was a fall out of the earlier rejection letter dated 20.12.2012.

7. It is pertinent to mention that though vide order dated 01.07.2019, this Court had specifically directed the respondent no. 3 to consider the allegations with regard to the functioning of the school and the propriety of the respondent no. 5 to hold the post of headmaster, the impugned order dated 26.11.2019 was passed by the respondent no. 4 in deviation of such direction. The impugned order does not furnish any substantial reasoning to justify such rejection, nor does it engage with the specific allegations advanced by the petitioner. Moreover, a copy of the alleged prior rejection order was not even supplied to the petitioner.
8. In view thereof this court is of the considered view that the impugned order dated 26.11.2019 passed by the Respondent No. 4 is not addressing the grievances raised by the

petitioner in his representation dated 10.07.2019. Hence the impugned order is hereby set aside with a direction to the respondent no. 3, i.e, Secretary, Minorities Affairs & Madrasah Education Department, Government of West Bengal to consider the petitioner's representation dated 10.7.2019 within a period of four weeks after affording an opportunity of hearing to the all concerned parties by specifically addressing the grievances raised by the petitioner in his representation dated 10.7.2019.

9. It is clarified that this court has not examined the various contentions raised by the parties.
10. Respondent no. 3 is at liberty to deal with all the allegations and pass a speaking order on its own merits, in strict compliance with the principles of natural justice.
11. With the above direction, the present writ petition is disposed of.

(Gaurang Kanth, J.)