

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 11948 of 2025

**Kiriti Bhusan Orang
Vs.
The State of West Bengal & Ors.**

For the Petitioner:- Mr. Ekramul Bari
Sk. Imtiaj Uddin

For the State :- Mr. Suman Sengupta
Ms. Amrita Panja

Heard on : 23rd June, 2025 and 14th July, 2025

Judgement on : 14th July, 2025

Saugata Bhattacharyya, J.:

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. Matter is heard in presence of the learned advocates representing the petitioner and the State respondents.
3. Mr. Bari, learned advocate representing the petitioner has prayed for in effect implementation of the order dated 16th April, 2021 passed by a coordinate bench on a batch of writ petitions first one being **WPA 2568 of 2009 (Tapas Kumar Ghosh Vs. The State of West Bengal & Ors.)**. It is submitted that in that batch of writ petitions petitioner's writ petition being **WPA 11764 of 2015 (Kiriti Bhusan**

Orang Vs. The State of West Bengal & Ors.) was also decided.

While passing order dated 16th April, 2021 the coordinate Bench observed taking note of the point decided in a writ petition being

WPA 14468 of 2013 (Animesh Chowdhury vs. The State of West Bengal & Ors.) that ratio of **Animesh Chowdhury** (supra) shall apply in those writ petitions including the writ petition of the petitioner which was disposed of vide order dated 16th April, 2021.

4. It is submitted that though claim of the petitioner for sanction of postgraduate scale of pay was decided vide order dated 16th April, 2021 passed in **Tapas Kumar Ghosh** (supra) but the benefit of postgraduate scale of pay till date has not been extended.
5. Mr. Suman Sengupta, learned advocate representing State respondents has opposed the prayer of the petitioner by submitting that the order passed on 16th April, 2021 deciding the first writ petition of the present petitioner being WPA 11764 of 2015 was not communicated to the concerned respondent authorities resulting in non compliance of the said order by not granting postgraduate scale of pay. It is also submitted that it was open to the petitioner to approach the coordinate Bench by filing the contempt application but same was not taken out. Since by filing the fresh writ petition prayer is made for implementation of the order dated 16th April,

2021 it amounts to fresh cause of action which needs to be considered afresh.

6. In support of such contention reliance is placed on **AIR 1975 SC 460 (Saraswati Industrial Syndicate Ltd. Vs. Union of India & Ors.)** on the context that writ of mandamus can only be issued when there is failure to perform mandatory duty. This submission is made in the context of objection raised on behalf of State respondents that no communication of the order dated 16th April, 2021 was made to the concerned respondent authorities for compliance. Therefore, there was no failure on the part of the concerned State respondents to comply with the order dated 16th April, 2021.
7. If Court proceeds on the premise that there was no communication of the order dated 16th April, 2021 passed by the coordinate Bench in the writ petition filed by the petitioner being WPA 11764 of 2015, what emanates from the said order dated 16th April, 2021 that issue was decided by the coordinate Bench thereby giving direction upon the State respondents to grant higher scale of pay in favour of the petitioner. By instituting present writ petition prayer is made for implementation of the order dated 16th April, 2021 passed by the coordinate Bench.

8. On behalf of the petitioner it is rightly pointed out that another coordinate Bench while deciding the issue in **WPA 23734 of 2013 (Ferdowsi Ara Begum vs. The State of West Bengal & Ors.)** relied upon the decision of the Hon'ble Supreme Court reported in **(2007) 7 SCC 689 (Commissioner, Karnataka Housing Board Vs. C. Muddaiah)**. Judgment of another co-ordinate Bench in **Indrapuri Studio Pvt. Ltd. & Anr. Vs. West Bengal State Warehousing Corporation & Ors.** reported in **(2003) 4 CHN 148** was also taken into consideration and it was decided that for implementation of the order passed by a learned single judge in earlier writ petition, second writ petition is maintainable.
9. In view of aforesaid discussion District Inspector of Schools (SE) Paschim Burdwan being respondent no. 3 is directed to grant postgraduate scale of pay to the petitioner as it was decided in the order dated 16th April, 2021 passed by the coordinate Bench in the writ petition of the petitioner being WPA 11764 of 2015 within a period of 4 (four) weeks from the date of communication of this order. However, such benefit is to be granted to the petitioner from the date of publication of the result of final examination as it is decided by the Hon'ble Special Bench on a batch of matters first one being **WPA 9921 of 2007 (Utpal Kanti Karan Vs. State of West Bengal & Ors.)**. Since there is no lapses on the part of the

respondent no. 3 in granting postgraduate scale of pay in favour of the petitioner and no specific case is made out that within time order dated 16th April, 2021 was communicated to the respondent no. 3, taking note of observation made in paragraph 24 of **Saraswati Industrial Syndicate Ltd.** (supra), State respondents are not directed to pay interest due to delay in releasing such benefit of higher scale of pay.

10. With the aforesaid directions writ petition stands disposed of.
11. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)

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