

09.09.2025.
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Ct.No.7.
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WPA 14086 of 2023

Suprakash Das
Vs.
The State of West Bengal & Ors.

Mr. Soumya Majumder, Ld. Sr. Adv.,
Mr. Saikat Chatterjee.
.....for the Petitioner

Mr. Sanjib Das.
.....for the State

Mr. Partha Sarathi Bhattacharyya, Ld. Sr. Adv.,
Md. Abdur Rakib.
...for the Respondent Nos.5 to 7.

1. The present writ petition has been filed assailing the legality and validity of the order dated 24th May, 2022, issued by the District Inspector of Schools, whereby approval of the petitioner's appointment to the post of Assistant Teacher in Bengali was refused. The petitioner has further prayed for issuance of a writ of *Mandamus* directing the respondents concerned to approve the panel prepared for the said post of Assistant Teacher in Bengali at Sree Sree Ramkrishna Vidyapith, situated at Suri, District Birbhum (hereinafter referred to as "the school").

2. Mr. Majumder, learned Senior Advocate appearing on behalf of the petitioner, submits that pursuant to an advertisement published by the school authority in a vernacular daily on 7th September, 2018, inviting applications from eligible and intending candidates for filling up the post of

Assistant Teacher in Bengali, the petitioner, being duly qualified, submitted his application for the said post.

3. Upon successfully clearing the selection process, the petitioner secured the first position in the panel prepared for the post of Assistant Teacher in Bengali, and the said panel was duly forwarded to the District Inspector of Schools for approval. However, the District Inspector of Schools declined to accord approval to the panel on the ground of certain alleged irregularities.

4. He contends that a bare perusal of the order dated 24th May, 2022 reveals that the District Inspector of Schools declined to approve the panel primarily on the grounds that the advertisement had not been published in conformity with sub-rule (6) of Rule 9 of the West Bengal (Special Procedures for Selection of Persons for Appointment to the Posts of Teachers and Non-Teaching Staff of Certain Notified Schools) Rules, 2013 (hereinafter referred to as the 2013 Rules), and further, that the selection process had not been concluded within the time stipulated therein.

5. He submits that all relevant details were duly disclosed on the website mentioned in the advertisement. He further argues that the time limit stipulated under sub-rule (6) of Rule 9 of the 2013 Rules cannot be construed as mandatory in nature. It is also contended that the School Education Department of the State itself caused a delay of nearly 86 days in appointing the Government Nominee to the Selection Committee, and such delay cannot be attributed either to the school authority or to the petitioner. Accordingly, he contends

that the reasons assigned for declining approval of the panel are not legally sustainable. He, therefore, prays for a direction upon the respondents concerned to accord approval to the said panel.

6. Mr. Bhattacharya, learned Senior Advocate appearing on behalf of the school authority, submits that the order dated 24th May, 2022 reflects that approval of the petitioner's appointment was declined by invoking sub-rule (6) of Rule 9 as well as sub-rule (3) of Rule 9 of the Rules, 2007. He further submits that the 2007 Rules were framed by the State Government in exercise of the powers conferred under Section 17 of the West Bengal School Service Commission Act, 1997. Referring to Section 15A of the said Act, he contends that the State Government is empowered, in terms of this provision, to exempt from the purview of the 1997 Act any school or category of schools established and administered by charitable organizations, subject to such conditions, restrictions, and for such period as may be specified in the order of exemption.

7. Referring to Annexure I of Order No. 37-SE(S)/10R-12/2013 dated 9th January, 2014, he submits that the school, namely Sree Sree Ramkrishna Vidyapith (HS), situated at Suri, District Birbhum, has been kept outside the purview of the 1997 Act. Hence, he contends that the refusal to approve the petitioner's appointment on the basis of the 2007 Rules is wholly improper.

8. Mr. Bhattacharya asserts that the selection process was conducted strictly in accordance with the applicable rules and

maintains that there were no irregularities or illegalities in its conduct.

9. Mr. Das, learned Advocate appearing for the State, submits that the District Inspector of Schools rightly declined to approve the panel on account of certain detected irregularities. He contends that the advertisement did not properly disclose information regarding the selection process and, furthermore, that the school authority failed to conclude the selection process within the time prescribed under the 2013 Rules.

10. Heard the learned Advocates appearing for the respective parties and perused the materials on record.

11. From the records, it is evident that in the order dated 24th May, 2022, the District Inspector of Schools observed that although prior permission to fill up the post had been granted on 13th July, 2017, the Selection Committee had been constituted earlier on 22nd January, 2016. It was further noted that the advertisement did not disclose essential particulars such as the syllabus of the examination, the question pattern, and the evaluation system. In addition, the selection process was not concluded within the period stipulated under sub-rule (6) of Rule 9 of the 2013 Rules, and no resolution of the Managing Committee indicating the number of participants in the selection process was forwarded to the District Inspector of Schools. On these grounds, approval of the panel was declined.

12. The order dated 24th May, 2022 records that prior permission for filling up the post was initially granted on 5th

November, 2015, and thereafter, a corrigendum was issued on 13th July, 2017. The District Inspector of Schools, however, treated 13th July, 2017 as the date of prior permission. It has not been appreciated that any corrigendum and/or amendment ordinarily relates back to the date of issuance of the original document, i.e., the prior permission. Therefore, the doubt raised regarding the constitution of the Selection Committee on 22nd January, 2016 is baseless.

13. As noted earlier, the advertisement clearly specified that all details regarding the selection process would be made available on the website, viz., <http://rkashramdub.org/>. Consequently, the absence of such details in the newspaper advertisement cannot be taken to mean that the requirements of sub-rule (6) of Rule 9 of the 2013 Rules were not complied with.

14. Sub-rule (6) of Rule 9 of the 2013 Rules provides that upon receipt of prior permission from the District Inspector of Schools, the school authority shall publish an open advertisement inviting applications from eligible candidates in at least two State-level daily newspapers, one in the local language and the other in English. Further, the date of selection shall not exceed 120 days from the date of publication of the advertisement in the newspaper.

15. It is not disputed that the advertisement was duly published in two newspapers in accordance with sub-rule (6) of Rule 9. It is noteworthy that the legislature has employed the word “shall” while prescribing the timeline, without incorporating any penalty or consequence for non-compliance.

Accordingly, the timeline cannot be construed as mandatory. Moreover, in the present case, there was a delay of 86 days in the appointment of the Government Nominee to the Selection Committee, and such delay cannot be attributed either to the school authority or to the petitioner.

16. In the present case, the doubt appears to have arisen solely on account of the petitioner's father being an Assistant Teacher at the school. However, the school authority has categorically stated in its affidavit that the petitioner's father was not a member of the Selection Committee. Merely because the petitioner's father is employed as a teacher in the school, no automatic presumption can be drawn that the selection process was vitiated by irregularities or illegality.

17. Accordingly, for the reasons set out in the preceding paragraphs, I find no justification for the order declining the case of approval of the petitioner's appointment. The order dated 24th May, 2022 is, therefore, set aside. The District Inspector of Schools is directed to reconsider the case of approval of the petitioner's appointment in accordance with the rules applicable to the present selection process. Such exercise shall be completed within eight weeks from the date of receipt of a copy of this order.

18. With this observation and order, the writ petition is disposed of, however, without any order as to costs.

(Partha Sarathi Chatterjee, J.)