

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

**CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 1475 of 2025

Arjun Biswakarma

-vs-

The State of West Bengal & Ors.

For the Petitioner	: Mr. Sanjay Mazoomder : Mr. Rahul Ghatak
For the State	: Mr. Hirak Barman : Mr. Bikash Singha
For the respondent no. 7	: Mr. Bikramaditya Ghosh Mr. Ved Rai Mr. Vivek Saha

Heard on : 28.07.2025

Judgment on : 28.07.2025

SAUGATA BHATTACHARYYA, J.:

- 1) Affidavit of service filed on behalf of the petitioner is taken on record.
- 2) This writ petition has been instituted out of feud in between the petitioner and respondent no. 7 for being appointed as Teacher-in-Charge of Ila Palchoudhury

Memorial (Tribal) Hindi High School, Darjeeling (hereinafter referred to as “said school”).

3) It is contended on behalf of the petitioner that he is senior to one Mamata Lama being respondent no. 7 in consideration of their respective dates of appointment. Therefore, according to the petitioner, he ought to have been engaged as Teacher-in-Charge of said school by giving credence to petitioner’s seniority. Ignoring seniority of the petitioner respondent no. 7 was selected and joined the post of Teacher-in-Charge on 26th April, 2025, which is assailed in this writ petition. It is submitted that seniority should be given priority in selecting the candidate for the post of Teacher-in-Charge, which was not done in the present case.

4) On the contrary, learned advocate representing respondent no. 7 submits that respondent no. 7 is having post-graduate qualification with B.Ed. degree which is requisite qualification for appointment of Headmaster/ Headmistress in a Government aided high school. It is also submitted that respondent no. 7 completed ten years of approved service before her selection for the post of Teacher-in-Charge. According to respondent no. 7, educational qualification as well as length of approved service made her eligible to be selected to the post of Teacher-in-Charge in said school whereas petitioner does not possess requisite

qualification that is post-graduate degree. In support of such submission, reliance is placed on the judgment of Hon'ble Justice Dipankar Datta dated 17th February, 2015 passed on a writ petition being **WPA 37202 of 2013 (Smt. Rina Roy Vs. The State of West Bengal & ors.)**. Reliance is also placed on a notification dated 3rd August, 1991 being Edn.(B)/IM-25/91 which provides for appointing a candidate as Teacher-in-Charge of a secondary or higher secondary school in absence of Headmaster, qualified assistant teacher should be interpreted as one who has the requisite qualifications and experience for appointment as Headmaster of secondary and/or higher secondary school. In addition thereto, it is brought to the notice of this Court that in the meeting of the Managing Committee conducted on 28th April, 2025 petitioner did not raise objection against selection of respondent no.7 for being appointed as Teacher-in-Charge and in support of same documents are placed before this Court and same are taken record.

5) State respondents are also represented by learned advocate.

6) While examining *inter se* merit of the petitioner and respondent no. 7 for being adjudged as an eligible candidate to be appointed as Teacher-in-Charge, it appears apart from seniority merit is relevant consideration which ought to be

given preference in consideration of the ratio decided in **Rina Roy** (supra). It is decided in **Rina Roy** (supra) that there is nothing wrong in appointing the senior-most or any other willing teacher having requisite qualification and experience for appointment on the post of Headmaster/Headmistress, as the Teacher-in-Charge of the school on condition that he/she would have to revert to his/her parent post of Assistant Teacher as and when the regular Headmaster/Headmistress is selected, appointed and takes charge.

7) In the notification dated 3rd August, 1991 it was provided for the purpose of appointment of Teacher-in-Charge of a secondary or higher secondary school in absence of Headmaster, qualified assistant teacher should be engaged as one who has the requisite qualifications and experience for appointment as Headmaster of the secondary and/or higher secondary school.

8) On conjoint reading of the judgment delivered in **Rina Roy** (supra) and notification dated 3rd August, 1991, what is found to be relevant for appointment of Teacher-in-Charge in secondary/ higher secondary school is educational qualification of the teacher concerned which makes that teacher eligible to be appointed as Headmaster/Headmistress in secondary/higher secondary

school. In the present case, indisputably petitioner does not have post-graduate degree which is essential qualification for being appointed as Headmaster/ Headmistress. On the contrary, respondent no. 7 is possessing requisite qualification to be appointed as Headmaster/ Headmistress.

9) In addition thereto, considering the documents placed on behalf of respondent no. 7 it appears that in the meeting of the Managing Committee conducted on 28th April, 2025 petitioner did not make demur against selection of respondent no. 7 for the post of Teacher-in-Charge of said school but subsequently such engagement made in favour of respondent no. 7 is questioned by instituting this writ petition, which ought not be encouraged.

10) In view of aforesaid scenario, no relief can be granted to the petitioner.

11) Writ petition stands dismissed.

12) There shall be no order as to costs.

13) Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)