

OD-2

ORDER SHEET

WPO/714/2017

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AJAY SHANKAR UPADHAY & ANR.
VS
THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE RAI CHATTOPADHYAY

Date : 16th January, 2025

Appearance:

Mrs. Shanti Das, Adv.

Mr. R.D. Bhowmick, Adv.

...for the petitioners

Mr. Sakti Pada Jana, Adv.

Mrs. Sudipta Pramanik, Adv.

...for school authority

Mrs. Tapati Samanta, Adv.

...for the State

The Court: The affidavit-in-opposition submitted in Court today on behalf of the respondent no. 3 be taken on record.

The writ petitioners have challenged an order of the District Inspector of Schools (SE), Kolkata dated November 16, 2017, by dint of which the said respondent has declined the petitioners' prayer for approval for the reasons stated therein. The issues involved in this case have already been dealt with by this Court and decided upon in the judgment dated December 3, 2024 in WPO/422/2019 (*Rana Pratap Roy v. The State of West Bengal & Ors.*), excepting the issue of the petitioner's being over-aged.

Be that as it may, since the facts appear to be similar and the present petitioner is the teachers of the same school as the petitioner in WPO/422/2019, the Court finds the ratio in the judgment of this Court in the said writ petition being WPO/422/2019, be squarely applicable in the present case.

Mrs. Tapati Samanta, learned Advocate for the State respondent has, however, raised objections regarding contentions and prayers of the writ petitioners in this case on the basis of the judgment of the Hon'ble Co-ordinate Bench dated August 2, 2022 in WPO/140/2018 and the judgment of the Hon'ble Division Bench dated August 8, 2024, in APOT No. 79/2023.

Considering all as above, the Court finds it proper to direct the Principal Secretary, Education Department, Government of West Bengal/ respondent no. 1 to take decision afresh on the issues involved in the present writ petition.

In that event, the order impugned, i.e., the order of the District Inspector of Schools (SE), Kolkata dated November 16, 2017 is hereby set aside.

Let the petitioners and the respondent school authority be given opportunity of hearing, by the said respondent for the purpose.

Let the Principal Secretary also consider the orders of this Court in WPO/422/2019, WPO/140/2018 and APOT/79/2023, to come to a decision and record his reasons in a written order. He shall allow the parties to produce the relevant documents, if any, before him.

Let the respondent no. 1 consider and dispose of the petitioners' prayer as has been made in this writ petition, positively within a period of four weeks from the date of communication of a copy of this order.

With the directions as above, WPO/714/2017 is disposed of.

(RAI CHATTOPADHYAY, J.)

sg.