

18 **24.03.**
2026
Ct. No. 24

Ab

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

WPA 2698 of 2026

**Bijoy Sarkar
Vs.
The State of West Bengal and others.**

**Mr. Sudip Ghosh Chowdhury,
Ms. Shreyeta Mitra,
Ms. Pritha Biswas,
Ms. Upasana Sarkar.**

... for the petitioner.

**Mr. Bebabrata Banerjee,
Mr. Hemanta Kumar Das.**

... for the State.

1. The affidavit of service filed today is taken on record.
2. The petitioner is the husband of the erstwhile Assistant Teacher of the Kinkarbaty Agricultural Institution. The said teacher, spouse of the petitioner, expired sometime in 2024.
3. The petitioner had applied for family pension to the school, which had duly forwarded the requisite documents to the respondent no. 3. The respondent no. 3 had sought clarification on the issue as to whether the spouse of the petitioner was entitled to pension or the increments, which were given to her, in view of the fact that she did not have the requisite B.Ed. Degree. The school has sent a clarification to such query by the respondent no. 3 on November 17, 2025.

4. In the said clarification, the school has categorically stated that the spouse of the petitioner had the requisite needle work diploma, which is the prescribed professional training qualification of a Work Education teacher. The requisite manual along with order no. S112 dated March 15, 1989 read with the Government Order Memo No. 13/D dated April 12, 2006 for non-necessity of B.Ed. for the Work Education Teacher were duly relied upon by the school.
5. The decision of the Hon'ble Supreme Court of India in the case of State of Punjab and Ors. vs. Rafiq Masih, reported in (2015) 4 SCC 334 is clear and unequivocal setting forth the circumstances and situations when excess payment can be recovered by the employer from the concerned employee.
6. Almost four months has lapsed since such clarification was given by the school to the concerned District Inspector of Schools.
7. For the afore-stated, the concerned District Inspector of Schools is directed to dispose of the matter pending in respect of the petitioner relating to the family pension, by April 30, 2026, on the basis of the memoranda afore-stated as well as on the basis of the parameters set forth by the Hon'ble Supreme Court of India in case of Rafiq Masih (supra).

8. Needless to say, if the decision is taken in favour of the petitioner, necessary consequential steps will be taken as expeditiously as possible to issue the requisite Pension Payment Order and disbursement of such amounts.
9. With these afore-stated directions, the writ petition is disposed of.
10. There shall, however, be no order as to costs.
11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Reetobroto Kumar Mitra, J.)