07.10.2026
Item no.13
Ct. no.14
ss

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. 6744 of 2026

Srabani Midya Chowdhury
versus
State of West Bengal & ors.

Mr. Soumen Kr. Dutta
Mr. Abu Sohel
Mr. Rajdeep Pramanik
Ms. Juthika Barman
... for the petitioner

Mr. Pratik Dhar, Sr. Adv.
Ms. Madhurima Sarkar
... for the West Bengal Madrasah Service Commission

Mr. Nadeem Sulaiman
Mr. Mijanul Kabir
... for the West Bengal Board of Madrasah Education

1. Affidavit of service filed on behalf of the petitioner is taken on record.

2. By the present writ petition the petitioner seeks direction upon the respondent authorities to allow the petitioner to join at her earlier post as Assistant Teacher in the concerned Madrasah wherein she had been rendering her job and for disbursement of her monthwise regular salary.

3. The petitioner contends that she was appointed as an Assistant Teacher in a Government recognized Madrasah namely, Gimageria Welfare High Madrasah (H.S.) *(hereinafter referred to as 'the said Madrasah')* by the *Ad-hoc* Managing Committee of the said Madrasah on 30th December, 2015. The petitioner joined the said Madrasah on the

subsequent date i.e. 31st December, 2015. Subsequent thereto, the petitioner participated in the State Level Selection Test *(in short 'SLST')* 2016 conducted by the West Bengal School Service Commission *(in short 'WBSSC')*. On being recommended by the WBSSC on 20th September, 2018, the petitioner joined Kamarda High School, Khejuri-I, Contai, Purba Medinipur on 27th September, 2018, on proper *'No-Objection'* certificate from the said Madrasah. Subsequent thereto, all the appointments pertaining to SLST, 2016 were cancelled by the Hon'ble Supreme Court *vide* its order dated 3rd April, 2025 passed in SLP 9586 of 2024 *[State of West Bengal -versus- Baishakhi Bhattacharyya (Chatterjee) and ors.]*. However, while disposing the aforesaid Special Leave Petition the Hon'ble Supreme Court in paragraph no. 47 granted liberty to the untainted candidates to revert back to the different departments of State Government or autonomous bodies etc where they previously worked. Pursuant to such order, the petitioner applied before the West Bengal Madrasah Service Commission *(hereinafter referred to as 'the Commission')* for rejoining in her previous institution. On 10th December, 2025 a notification was issued by the Commission for counseling and the name of the petitioner was listed at serial no.162. However, since then the petitioner has not received any response from the Commission for rejoining her previous place

of posting. Being aggrieved by the action of the respondent authorities, the petitioner has preferred the present writ petition.

4. Mr. Soumen Kr. Dutta, learned Advocate appearing on behalf of the petitioner submits that the appointment of the petitioner was approved by the State authority concerned on 21st September, 2016 subject to the final decision of Hon'ble Supreme Court in SLP 6661 of 2016 (*Sk. Md. Rafique -versus- The Managing Committee, Contai Rahamania High Madrasah & ors.).* The aforesaid Special Leave Petition was disposed of on 6th January, 2020 and by virtue of the observation of the Hon'ble Supreme Court in paragraph no. 64 of the said judgment in *Sk. Md. Rafique (supra)* the appointment of the petitioner was protected by the Hon'ble Court. The petitioner having been called by the Commission for councelling ought to have allowed her to rejoin her previous place of posting. He seeks for appropriate direction.

5. On the contrary, Mr. Pratik Dhar, learned Senior Advocate representing the Commission, at the outset, submits that the appointment of the petitioner has been issued by the *Ad-hoc* Managing Committee of the said Madrasah. In ***Najma Khatun and others -versus- State of West Bengal and others***, reported in ***2026 SCC OnLine SC 1313*** the appointment of some candidates by the *Adhoc* Managing Committee of the same Madrasah has

been highly deprecated by the Hon'ble Court observing that such Committee lacked the authority to initiate the recruitment process and that the right of the such candidates are not legally protected right to be enforced judicially. Furthermore, the Hon'ble Supreme Court in paragraph no. 47 of *Baishakhi Bhattacharyya (Chatterjee) (supra)* has allowed the untainted candidates to revert back to the different departments of Government or autonomous bodies etc. The said Madrasah is neither a department of the State nor an autonomous body. Moreover, the appointment of the petitioner was not made by the recommendation of the Commission. The list at page no. 117 of the writ petition is the list of candidates who applied for rejoining and not the list prepared upon councelling. Thus, the petitioner cannot claim as a matter of right to revert back to the said Madrasah since her appointment has been made by the *Ad-hoc* Committee of the said Madrasah which did not had the authority to initiate recruitment process and the right of the petitioner cannot be a legally protected right to be enforced judicially as held by the Hon'ble Supreme Court in respect of another candidates in *Najma Khatun (supra)*. On such score he seeks for dismissal of the writ petition.

6. Upon hearing the learned advocates for the respective parties, the only issue which falls for consideration is whether the petitioner the prayer of

the petitioner to revert back to the said Madrasah is sustainable or not.

7. Indisputably, the petitioner's appointment has been made by the *Ad-hoc* Committee of the said Madrasah on 30th December, 2015. While dealing with the appointment of the candidates of the said Madrasah namely, Raj Kumar Bag and Sk. Saifuddin made by the *Adhoc* Committee, in paragraph 23 (e), (j) and 33(c) and (d) of *Najma Khatun (supra)* the Hon'ble Supreme Court negatived such appointments and observed as follows :

> *"23(e). Notably, the Ad hoc Managing Committee was not authorised by the Division Bench to take any policy decision or to incur expenditure other than what was required to run the day-to-day administration of GWH Madrasah. Payment of salary and allowances to a newly appointed teacher would necessarily involve substantial expenditure, which obviously is not comprehended within the meaning of day-to-day administration and was also not permitted. In the absence of express authorisation, the argument of Mr. Kamat that the Ad hoc Managing Committee did have the authority and competence to appoint this petitioner defies logic and prudence*
> *23(j). Raj Kumar Bag's claim of a valid appointment, thus, has to fail..*
> *xxxxxxxxxxxxxxx*
>
> *33(c)The reason for not entertaining the claim of Raj Kumar Bag applies mutatis mutandis to this petitioner. The Ad hoc Managing Committee for GWH Madrasah, constituted in terms of the interim order dated 17th June, 2014 and continued by the final order dated 24th July, 2014 of the Division Bench of the High Court, lacked the authority to initiate the recruitment process.*
>
> *d). The Ad hoc Managing Committee having undertaken the recruitment process without authority, the claim of Sk. Saifuddin must also fail."*

8. Indisputably, so far appointments are concerned, the petitioners before the Hon'ble Supreme Court and the petitioner in the instant writ petition were appointed by the *Ad-hoc* Committee of the said Madrasah.

9. Bearing in mind the aforesaid observation of the Hon'ble Supreme Court it leaves no manner of doubt

that fate of appointment of the petitioner by the *Ad-hoc* Committee of the said Madrasah will be guided and governed by the observation of the Hon'ble Supreme Court as above and will have the same consequence as of the petitioners before the Hon'ble Court on the ground that the *Adhoc* Committee lacked authority to initiate the recruitment process and thus the petitioner cannot claim any legally protected right to be enforced judicially. In the above conspectus, the petitioner cannot sustain her claim of reverting back to her previous School basing on the liberty granted by the Hon'ble Supreme Court in *Baishakhi Bhattacharyya (Chatterjee) (supra)* in paragraph no. 47 of the said decision.

10. It has been vociferously argued by Mr. Dutta, learned Advocate for the petitioner that the appointment of the petitioner has been protected by dint of observation of the Hon'ble Supreme Court in paragraph no.64 of *Sk. Md. Rafique (supra).*

11. In order to examine the aforesaid submission it would be apposite to reproduce paragraph no. 64 of *Sk. Md. Rafique (supra).*

> *"64. In the end, we declare all nominations made by the Commission in pursuance of the provisions of the Commission Act, 2008 to be valid and operative. However, if after the disposal of the matters by the High Court any appointments are made by the Madarsahs concerned, such appointments of teachers shall be deemed to be valid for all purposes. But the Commission shall hereafter be competent to select and nominate teachers to various Madarsahs in accordance with the provisions of the Commission Act, 2008 and the Rules framed thereunder."*

12. In *Najma Khatun (supra)* similar submissions were advanced before the Hon'ble Supreme Court wherein

in paragraph no.17 of the said judgment the Hon'ble Supreme Court observed as follows:

> *"17 It is, therefore, clear as day that the observation made in paragraph 64 of Sk. Mohd. Rafique (supra), relied on by Mr. Roy, was duly considered in Snehasis Giri (supra) and bearing in mind the factors referred to in the extracted passages, further directions were issued regarding constitution of the Committee for verification of the claims. On the point as to whether the appointments are valid or not, the directions in Snehasis Giri (supra) constitute the binding directions which each party to the lis is now bound to follow. Building a case placing reliance on the said observation in paragraph 64 of Sk. Mohd. Rafique (supra), in the changed circumstances, is like building on sand; to rest a claim on such observation is to mistake a whisper for authority. We, thus, have no hesitation in rejecting this argument of Mr. Roy as misconceived."*

13. Bearing in mind the above observation, it goes without saying that the petitioner cannot claim that her right of appointment has crystalised and is protected on the basis of the observation of Hon'ble Supreme Court in paragraph no. 64 of the judgment passed in *Sk. Md. Rafique (supra).*
14. In light of the above discussion, the writ petition falls short of merit.
15. Accordingly, the writ petition being **WPA 6744 of 2026** stands dismissed.
16. Interim order, if any, stands vacated.
17. All connected applications, if any, stand disposed of.
18. There shall be no order as to costs.
19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(**Bivas Pattanayak, J**.)