**M/L 10**
05.10.2026
Court No.24
*SD*

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 9815 of 2026

Manjushree Hudait
Vs.
The State of West Bengal & Ors.

*Mr. Sudip Ghosh Chowdhury*
*Ms. Pritha Biswas*
*Ms. Upasana Sarkar*
*... for the Petitioner.*

*Mr. Sahasrangshu Bhattacharjee, Ld. AGP*
*Ms. Mary Datta*
*Mr. Suchindram Bhattacharjee*
*... for the State.*

*Mr. Bikram Banerjee*
*Ms. Som Subhra Ganguly*
*Ms. Sinjini Chakrabarti*
*Mr. Baibhav Roy*
*... for the Respondent Nos.4, 6-7.*

*Mr. Arindam Shit*
*... for the Respondent No.5.*

1. Perused the report filed by the District Inspector of Schools (SE), South 24 Parganas signed on September 29, 2026.

2. It has been mentioned that pursuant to the order passed by the Hon'ble Supreme Court on April 3, 2025 in SLP (C) No.9586 of 2024 [State of West Bengal vs. Baishakhi Bhattacharyya (Chatterjee)], the Commissioner of School Education, West Bengal vide Office Memo No. 1517(20)-GA-DSE-14012(23)/17/2025-LAWSEC(DSE)-DSE dated November 20, 2025 directed twenty school authorities including the respondent school to allow twenty teachers including the present petitioner to join as Assistant Teacher in her previous post upon creating and/or allotting twenty such posts of Assistant

Teacher which will cease to exist after being vacated by way of resignation/retirement/death.

3. The name of the petitioner is included in the list of teachers directed to be appointed pursuant to the leave granted by the Hon'ble Supreme Court in paragraph 47 of the judgment delivered by the Hon'ble Supreme Court in the matter of Baishakhi Bhattacharyya (Chatterjee) (supra).

4. The DI has mentioned that despite communication, the school has not issued letter allowing the petitioner to join.

5. Learned advocate representing the school submits that the school in question is a minority institution protected under Article 30 of the Constitution of India. The managing committee of the school cannot be treated to be a Government department or body as referred to in paragraph 47 of the judgment of the Hon'ble Supreme Court.

6. According to the school, the present staff pattern will not permit to accommodate a further teacher of the subject Pure Science. The school already has adequate number of Pure Science teachers and there is hardly any scope for engaging another teacher in the subject Pure Science.

7. It has been submitted that the petitioner may be accommodated in some other school where there is requirement of Pure Science teacher.

8. The Court is of the view as the mandate of the Hon'ble Supreme Court in paragraph 47 is very clear

that though the appointment of the candidates of 2016 recruitment process stood cancelled, but the candidates who do not fall within the category of tainted candidates and may have previously worked in different departments of the State or the autonomous bodies, etc., such candidates will have the right to apply to their previous departments or autonomous bodies to continue in service with those entities.

9. The Hon'ble Supreme Court directed that the applications made by such candidates must be processed by the respective departments or bodies within three months and the candidates will be allowed to resume their posts.

10. The period between termination of the previous appointment and their rejoining will not be considered as break in service. The seniority, increment and other entitlement will be preserved. If required and necessary, supernumerary post may be created for persons appointed in the interregnum.

11. The intention of the Hon'ble Supreme Court is to provide relief to the untainted candidates to revert back to their previous posts.

12. This Court would be bound by any direction passed by the Hon'ble Supreme Court. The employer at the same time would be legally bound to comply with the direction passed by the Hon'ble Supreme Court. If the employer is aggrieved by the direction passed in paragraph 47 of the judgment in the matter

of Baishakhi Bhattacharyya (Chatterjee) (supra), then it is for the employer to draw the attention of the Hon'ble Supreme Court. Till paragraph 47 of the said judgment remains, the employer does not have any other alternative but to comply the direction passed by the Court.

13. The argument made by the employer against permitting the candidate to re-join on the plea that the staff pattern will not permit such joining would be contrary to the direction passed by the Hon'ble Supreme Court.

14. In the instant case, the Commissioner of School Education has already created supernumerary posts. The petitioner shall be accommodated in the school in view of the direction passed by the Hon'ble Supreme Court.

15. The school shall take steps in the matter at the earliest.

16. The writ petition stands disposed of.

17. Parties to act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.

18. Certified server copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**(Amrita Sinha, J.)**