

21.01.2026
Sl. No.4(DL)
Ct. No.14
ss/srm

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

W.P.A. No. 14744 of 2025

Jahanur Islam

Versus

The State of West Bengal & Ors.

Md. Salahuddin,
Md. Reziuddin

...for the Petitioner.

Mr. Ayan Chandra Roy,
Mr. Sutanu Chakrabarti

...for the State.

Mr. Nadeem Sulaiman

...for the Madrasah Board.

Mr. Anindya Bose,
Mr. Golam Mohiuddin,
Mr. Mridul Biswas,
Mr. Md. Kaif Hossain

...for the Respondent No.6.

1. By the present writ petition, the petitioner seeks for direction upon the respondent authorities to appoint the petitioner, being the senior-most and experienced teacher, to the post of Teacher-in-Charge (*in short, 'TIC'*) in Madrasah Hussainia High Madrasah (H.S.) (*hereinafter referred to as the 'Madrasah'*) upon quashing the appointment of respondent no.6 namely Nur Alam Sk as TIC and its approval by the District Inspector of Schools (SE), Murshidabad.
2. The petitioner contends that he is an Assistant Teacher in the said Madrasah. The petitioner joined in the said institution on 17th February, 2004 and his service has been duly approved by the District Inspector of Schools

(SE), Murshidabad on 4th March, 2004. Since the tenure of the Managing Committee of the said Madrasah has expired, one Administrator has been appointed by the District Inspector of Schools (SE), Murshidabad for smooth administration. By notice No.3/25 dated 10th March, 2025, the existing Headmaster of the said Madrasah as per order of the Administrator invited applications seeking willingness for appointment to the post of TIC in the said Madrasah as the Headmaster was to retire from service on 30th April, 2025. Pursuant to such notice dated 10th March, 2025, the petitioner submitted his application on 13th March, 2025 to the Administrator through the then Headmaster for his appointment to the post of TIC of the said Madrasah. The respondent no.6 also gave his willingness. Respondent no.6 was selected as TIC without considering the fact that the petitioner is the most eligible and senior-most Assistant Teacher in the said Madrasah. Being aggrieved by such action of the respondent authorities, the petitioner has preferred the present writ petition.

3. The writ petition is keenly contested by the respondent No.4 and the respondent No.6 by filing their respective affidavits-in-opposition.
4. The respondent no.4, District Inspector of Schools (SE), Murshidabad contends that there is no existence of any substantive post of TIC. A TIC may be appointed amongst the willing teachers having requisite

qualification. The respondent No.4 has granted approval for appointment of respondent No.6 as TIC.

5. The respondent No.6, the present TIC of the said Madrasah contends that as per the notice of Headmaster dated 10th March, 2025, the respondent No.6 submitted his application on 19th March, 2025 and participated in the process of appointment of TIC in the said Madrasah. The staff council of the said Madrasah conducted a meeting on 20th March, 2025 wherein resolution was adopted in connection with the selection process which was forwarded to the Administrator by the then Headmaster of the Madrasah. The Administrator issued order directing the staff council to select one TIC by voting amongst the candidates, i.e. the petitioner and respondent no.6 who had submitted their applications. By its meeting dated 3rd April, 2025, the majority members selected the respondent no.6 as the TIC. The selection of the TIC has also been approved by the District Inspector of Schools (SE), Murshidabad.
6. Md. Salahuddin, learned Advocate for the petitioner submits that although there is no such procedure laid down for selection of the TIC in Madrasah, however, the petitioner being the senior-most Assistant Teacher in the said Madrasah ought to have been selected as the TIC. To buttress his contention he relies on the decision of the Co-ordinate Bench of this Court passed in *Smt. Rina Roy versus The State of West Bengal & Ors. [In Re: W.P. No.37202 (W) of 2013]* and *Sri Sushanta Mondal*

versus The State of West Bengal & Ors. [In Re: W.P. No.13726 (W) of 2015].

7. On the contrary, Mr. Anindya Bose, learned Advocate for the respondent No.6 submits that the petitioner participated in the process of selection of TIC and when he has not been favoured with the post of TIC he has challenged the selection process. It is settled proposition of law that the candidate who has taken part in the selection process knowing fully well the procedure laid down therein was not entitled to question the same. To buttress his contention, he relies on the decision of the Hon'ble Supreme Court passed in ***Union of India & Ors, versus S. Vinodh Kumar & Ors.*** reported in ***(2007) 8 SCC 100***. The selection of the respondent No.6 has been made by way of voting by the staff council consisting of teachers and non-teaching staff and the same has been approved by the District Inspector of Schools (SE), Murshidabad. Therefore, the selection of the respondent No.6 as the Teacher-in-Charge does not call for any interference. He seeks for dismissal of the writ petition.
8. Mr. Ayan Chandra Roy, learned Advocate appearing for the State-respondent no.4, District Inspector of Schools (SE), Murshidabad submits that there is no prescribed procedure for selecting the TIC of a Madrasah. The Managing Committee or the Administrator, as the case may be, has the power to appoint TIC for smooth functioning of the Madrasah.

9. Mr. Nadeem Sulaiman, learned Advocate for the Madrasah Board submits that Rule 42 of the Management of Recognised of Non-Government Madrasah (Aided and Unaided) Rules, 2002 provides that the Committee of Madrasah shall consist of a staff council having composition of whole time teaching and non-teaching staff, permanent and temporary working against sanctioned post and sanctioned additional post, to work for the development of the Madrasah. The appointment of TIC is a consequential step for smooth running of the Madrasah. Therefore, the appointment of the respondent no.6, which has been made upon voting by staff council members, cannot be called in question.
10. In reply to the arguments advanced on behalf of the respondents, Md. Salahuddin, learned Advocate for the petitioner submits that the selection of TIC has been done without considering the seniority. Further, the process of voting in an institution imparting education is uncalled for. He seeks for quashing of the order selecting the respondent no.6 as TIC.
11. Having heard learned Advocates for the respective parties, the only issue which falls for consideration is whether the selection of the respondent no.6 as TIC is sustainable or not.
12. Both the petitioner and the respondent No.6 are Assistant Teachers in the said Madrasah. On the initiation of the process calling for submission of applications, the petitioner and the respondent No.6

gave their willingness to the Administrator to take part in the process of selection of TIC. The situation, which led to selecting a TIC, has arisen since the Headmaster of the said Madrasah was to retire from service on 30th April, 2025. Admittedly, the administration of the Madrasah is run by the Administrator since the tenure of the Managing Committee has expired. The Administrator passed order for selecting the TIC by way of voting amongst the staff council. The petitioner has participated in the meeting held by the staff council and the resolution was adopted therein. After such voting the respondent no.6 has been appointed/selected as a TIC of the said Madrasah. The selection of the respondent no.6 as TIC is precisely challenged on the ground that he is junior to the petitioner. There cannot be any quarrel that no such procedure has been laid down for selecting the TIC.

13. Md. Salahuddin, learned Advocate appearing on behalf of the petitioner placing reliance on the decisions of the Co-ordinate Bench of this Court in *Smt. Rina Roy* (supra) and *Sri Sushanta Mondal* (supra) has strenuously argued that seniority should be given preference.
14. In *Smt. Rina Roy* (supra) the Co-ordinate Bench of this Court in paragraph 8 has observed that if the post of Headmaster/Headmistress falls vacant in a secondary school and such school does not have the service of an Assistant Headmaster/Assistant Headmistress, there is

nothing wrong in appointing the senior-most or any other willing teacher having requisite qualifications as TIC on condition that he/she has to revert back to the post of Assistant Teacher as and when regular Headmaster/Headmistress is selected. Further it has been observed that since law does not permit seniority to have precedence over merit, it would indeed be a disservice to the meritorious if only on the ground of seniority a teacher is allowed to act as TIC.

15. In *Sushanta Mondal (supra)*, the Madrasah had Assistant Headmaster who was not made the TIC. Instead another Assistant Teacher was appointed as TIC by the Managing Committee, which was challenged in the writ petition. The facts are distinguishable from the case at hand.
16. None of the aforesaid cited decisions lays down that only the senior most teacher has to be appointed to the post of TIC.
17. The procedure as adopted for selecting the TIC by way of voting of staff council was never disputed by the petitioner when such resolution was adopted, rather, the petitioner has participated in such process. Needless to mention that such procedure has also not been specifically challenged in the present writ petition. This Court finds substance in the submission of Mr. Bose, learned Advocate appearing on behalf of the respondent no.6 relying on the decision in *S. Vinodh Kumar (supra)*, wherein it has been held that it is well-settled that those

candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same.

18. In light of the aforesaid discussion, the writ petition falls short of merit.
19. Accordingly, the writ petition being **WPA 14744 of 2025** stands dismissed.
20. Interim order, if any, stands vacated.
21. All connected applications, if any, stand disposed of.
22. There shall be no order as to costs.
23. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
24. 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.)