

01.05.2025  
Item No.4,DL  
Court No.25  
AJ.

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

**WPA 15296 of 2021**

**I.A. No. CAN 1 of 2022**

**Banalata Ojha @ Tahera Begam  
-Vs-**

**The State of West Bengal & Ors.**

Mr. Anjan Bhattacharya,  
Ms. Anita Shaw.  
.....for the petitioner.  
Mr. Shamim-ul Bari.  
.....for the State.

1. An order of the Director of Madrasah Education, Government of West Bengal dated July 7, 2017 is under challenge in the instant writ petition.

2. The subject matter of the writ petition relates to inaction of the respondent authority in approving service of the petitioner.

3. The petitioner has been appointed vide appointment letter dated April 16, 1984 with a qualification B.A. (trained in tailoring). At the time of appointment of the petitioner in the said Junior High Madrasah, there was no post for an Assistant Teacher in Work Education and Physical Education Group. The post has been introduced at the time of the Madrasah having been upgraded as a High Madrasah.

4. The petitioner has prayed for her approval against the solitary post in the Category of Work Education and Physical Education Group,

on the basis of her qualification and experience, in the Madrasah.

5. Mr. Bhattacharya, learned Advocate for the petitioner has relied on the staff pattern of the Madrasah in 2006. He submits that the petitioner has been mentioned therein as the only teacher in Work Education and Physical Education Group. On the basis of the same he has also submitted the other Assistant Teacher Md. Raquibuddin, who has been earlier said to have been approved in the said Group, has been actually approved as an Assistant Teacher in the Social Science Group as per the said staff pattern of the school.

6. The contradictory submission of Mr. Bari, learned Advocate for the State respondent is that since the year 1993 to 2003 when on various occasions the petitioner's claim as above was taken up by the authority for consideration, on each and every time the prayer of the petitioner has been rejected on the ground that there is no vacancy as regards the solitary position of an Assistant Teacher in Work Education and Physical Education Group, due to the fact that the teacher Md. Raquibuddin has been approved as against the said post.

7. Mr. Bhattacharya has raised strong objection to such contention of the respondent authority for the reason that Md. Raquibuddin

was not qualified with necessary adequate technical knowledge required for a teacher in the group of Work Education and Physical Education Teacher. That he could not have been automatically approved in the said group, as claimed, without such special knowledge.

8. Heard submissions of both the learned Counsels for the respective parties and perused the record.

9. It appears that the respondents have time and again upheld that Md. Raquibuddin is an approved teacher in the Madrasah as against the solitary position in Work Education and Physical Education group; though record reveals that Md. Raquibuddin did not possess adequate qualification to be accommodated therein. I find the staff pattern of the Madrasah in the year 2006 clearly suggests that as per order of this Court in WPA No. 5850 of 2001, Md. Raquibuddin is to be placed in the Social Science Group whereas the petitioner remains to be the only teacher in Work Education and Physical Education Group.

10. So far as the claim of the respondent authority that Md. Raquibuddin has been approved as a Teacher in Work Education and Physical Education Group is concerned, the same is bereft of any supporting document. Also that pursuant to the Court's order in WPA No. 5850 of

2001 it is evident that Md. Raquibuddin has to be accommodated and approved in Social Science Group only. Hence, even if for the sake of argument it is accepted that Md. Raquibuddin has been approved in Work Education and Physical Education Group, then such approval stands in violation of the Court's order as mentioned above, cannot be maintained any further and should be rectified.

11. On the perspective of the factual background of the case as above it is found proper to dispose of the writ petition by directing the respondent no.4/the Director of Madrasah Education, Government of West Bengal to take up the issue of approval of the petitioner in the solitary position in the Work Education and Physical Education Group in the Madrasah concerned, in the light of the facts and circumstances as discussed above in this order, as well as the Hon'ble Court's order in WPA No. 5850 of 2001.

12. In doing so, the said respondent authority shall afford an opportunity of hearing to the petitioner and/or her representative as well as the Madrasah Authority and any other person or persons as it may deem fit and proper.

13. He shall pass a reasoned order after hearing the parties, until and unless he

immediately allows the petitioner's prayer for approval against the Work Education and Physical Education Group in the said Madrasah.

14. The entire exercise as above should be concluded by the said respondent authority within a period of eight weeks from the date of communication of copy of this order. The said authority shall communicate his order, if any, to the petitioner within one week from its date.

15. WPA No. 15296 of 2021 is disposed of, along with application, if any pending.

16. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

**(Rai Chattopadhyay J.)**