
(1996) 06 CAL CK 0002
In the Calcutta High Court
Case No : F.M.A.T. No. 125 of 1994

Bimal Kumar Ghosh

APPELLANT

Vs

District Inspector of Schools (P.E.) and Others

RESPONDENT

Date of Decision : 12-06-1996

Acts Referred:

Bengal (Rural) Primary Education Act, 1930 — Section 23(i)(g)

Citation : (1996) 06 CAL CK 0002

Hon'ble Judges : S.K. Sinha, J;S.B. Sinha, J

Bench : Division Bench

Advocate : Ramapati Roy, for the Appellant; Rabilal Maitra and P.S. Deb Burman, for the Respondent

Final Decision : Dismissed

Judgement

Satyabrata Sinha, J.—This appeal is directed against a judgment and order dated 30th September, 1991 passed by a learned Single Judge of this Court in C.O. No. 13355(W) of 1991 whereby and whereunder the writ application filed by the petitioner was summarily rejected. Mr. Roy, Learned Counsel appearing on behalf of the appellant submits that the petitioner was an organiser teacher and had been working in the Kuthipara Primary School since 1972 and thus as an organiser teacher after the said school was recognised, he had a right to be absorbed.

2. The Learned Counsel in support of the aforementioned contention has relied upon a decision of a learned Single Judge of this Court in the case of Monoranjana Maity & Ors. reported in 85 CWN, 788.

3. The question as to whether the school in question is recognised or not appears to be in dispute. The District Inspector of Schools (P.E.). Nadia, in his report dated 31.7.91 which was the subject-matter of the writ application filed by the petitioner stated as follows :

i). It is not a fact the school he claimed to have organised, has been granted

recognition. Although a new Primary School of public management was set up at the initiative of the District School Board.

ii). It is not fact that any teacher was ever appointed for organising allegedly primary school in connection with the school.

iii). It is also a fact that the managing authority for allegedly organising primary school has never been approved by the District School Board, Nadia according to the condition of the statutory Rule No. 5(6) as promulgated under notification No. 2513-Edn. dated 31.7.1936 in connection with 54 of the Bengal Rural Primary Education Act 1930.

And

It is also a fact that there is no provisions for the appointment of any organiser teacher of the Rural Primary School after the promulgation of Amendment of Rule 3(4) vide Notification No. 713-Edn (p) dated 11.9.80 in connection with the Rules to provide for the condition of appointment of teachers in primary schools maintained by the District School Boards as well as the fixation of their salaries referred to in clause (g) of Subsection (i) of Section 23 of the Bengal Rural Primary Education Act, 1930. It may also be noted that the petitioner applied to the President. District School Board. Nadia on 12.8.88 and instituted the case in the same year i.e. long after the amendment of Rule 3(D).

In view of the above observation the matter be disposed of with the following opinion of the undersigned that the petitioner has no lawful claim for appointment as an organiser teacher.

4. It is not in dispute that Rule 3(D) has been deleted on 11th September, 1980. A Division Bench of this Court in the case of The Chairman, Ad Hoc Committee Vs. Jitendra Nath Chatterjee and Others, has clearly held that upon deletion of Rule 3(D) of the Rules the question of appointing any organiser in a primary school as an Assistant Teacher would not arise. However in that case certain directions had been issued. In the said decision of Monoranjan Maity (supra) it has been held that the amendment in the Rule which has taken place in the year 1900 whereby and whereunder Rule 3(D) has been deleted did not have any retrospective effect.

5. We are bound by the decision of the Division Bench in the case of J.N. Chatterjee (supra). It is not disputed that Bengal Primary Education Act, 1973 has now come into force with effect from August, 1990 to terms whereof the District Primary School Council has been established. In terms of the provision of 1973 Act and the Rules framed thereunder the District Primary School Councils are statutorily required to appoint teachers from the panel prepared by it. It is not in dispute that since 1981 no appointment had been made although prior thereto a panel was prepared and from the said panel, teachers were appointed but the life of the said panel has also lapsed, inasmuch as in terms of the relevant Rule the life of the panel was for one year which can be extended for a

period of six months. Thus from any angle we are of the view that no relief can be granted to the petitioner. However there cannot be any doubt whatsoever that as and when new panel is to be prepared the case of the petitioner shall also be considered along with other eligible candidates. For the aforementioned, the appeal is dismissed. There will be no order as to

Sujit Kumar Sinha, J.

I agree.