
(2019) 08 CAL CK 0217

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 15624 (W) Of 2019

Kalimulla Gazi

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 20-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 08 CAL CK 0217

Hon'ble Judges : Shampa Sarkar, J

Bench : Single Bench

Advocate : Shamimul Bari, Sirsanya Bandhapadhyay, Sudeshna Das Mazumder

Final Decision : Disposed Of

Judgement

Shampa Sarkar, J

The writ petition is filed by a person claiming to be an organizer assistant teacher of Naldi Darul Aminia Junior High Madrasah which was subsequently converted as a Madrasah Siksha Kendra.

It is the contention of the petitioner that although in the application form for approval of the said Madrasah as a Madrasah Siksha Kendra his name was appearing in the list of teaching and non-teaching staff at Sl No. 7. Inspection was held by the DLIT. In the report of the inspection team his name was not mentioned as a teacher of the Madrasah.

The Madrasah Siksha Kendra was approved but his service was not. Being aggrieved, the petitioner filed an application before this Court by filing W.P. 24624 (W) of 2012. The said application was disposed of with a direction upon the District Officer, Minority Affairs, North 24- Parganas, Barasat to dispose of the application of the petitioner dated April 25, 2008, which contained the grievances of the petitioner.

Pursuant to the direction of this Hon'ble Court, the District Officer, Minority

Affairs, North 24- Parganas, Barasat by an order dated June 15, 2015, came to the conclusion that the claim of the petitioner to be an organizer assistant teacher of the said Madrasah was baseless, misguided and not supported by any document. The order dated June 15, 2015 is impugned to this writ petition.

The observations of the District Officer, Minority Affairs, North 24- Parganas, Barasat is quoted below:

"The following observations are recorded at the time of hearing based on the statements given by the incumbent, documents in support of claims & available office records etc.

1) Kalimullah Gazi claims that he was deprived by the M.S.K. authority and as well as the DLIT. But it appears at the time of hearing Kalimullah Gazi lodged his first allegation on 09.04.10 i.e. 1 year 9 months later from the date of first approval of the said MSK. The MSK got its approval from D.M.E. 01.05.2009. It is surprising that an allegedly deprived incumbent i.e. Kalimullah Gazi did not lodge any allegation for such a long period.

2) Kalimullah Gazi failed to submit any documents in favour of his claims like copy of his first appointment letter issued by the Ad-hoc Committee Secretary, acceptance of his joining by the authority, and no any other documents in support of his claims.

3) DLIT inspection of Naldi Darul Ulum Aminia M.S.K. was taken place on 11.11.2008. DLIT submitted a transparent list of teaching and non-teaching staff to the authority and accordingly the list was approved by the D.M.E. at the time of its recognition. District Level Inspection Team is the highest authority to determine the list of teaching and Non-teaching staff of an institution as per available records of the institution. No ambiguity has been found in the list which was submitted by the DLIT.

4) First application for approval of recognition of Naldi Darul Ulum Aminia M.S.K. submitted the same with the petition is doubtful and its seems tampered one. No other applicant did not lodge any allegation to the authority. Not only that 2 (two) nos of teacher, out of 7 (Seven) appointed as assistant teacher to another institution prior to the date of first application of the said M.S.K. submitted by Kalimullah Gazi. Those two teachers namely Sarifa Sultana and Abdur Rouf Sarder have been working as assistant teacher at Siddikia Aminia Karimia M.S.K. and Dakshin Simulia Dadapeer Memorial M.S.K. respectively and they have submitted written statements/declarations accordingly.

Under the above context the claims of Kalimullah Gazi seems to be a baseless and motivated to misguide the authority and all other concerned. Considering all the above, the claims of Kalimullah Gazi is nullified and thus the matter is hereby disposed of.

All concerned is to be informed accordingly.

Date: 15-06-2015 District Officer Minority Affairs, North 24 Parganas, Barasat"

It appears from the order, that the facts revealed before the District Officer, Minority Affairs, North 24- Parganas, Barasat, did not support the claim of the petitioner. The petitioner failed to submit any document in favour of his claim. No appointment letter or joining letter could be produced. In the DLIT report the names of the petitioner did not transpire. There was no ambiguity found with the report. The first application for approval of the Madrasah as M.S.K. submitted by the petitioner which is also annexed to this writ petition was found to be tampered. None of the other applicants similarly situated as the petitioner had raised any allegation with the DLIT report. Moreover, two of the teachers out of the seven whose name appeared in the list submitted by the petitioner were already appointed to another Madrasah Siksha Kendra prior to the said application.

On appreciation of the above facts, the District Officer, Minority Affairs, North 24-Parganas, Barasat came to the conclusion that the petitioner's claim as an organizer teacher of the said Madrasah was baseless.

This Court sitting in judicial review, cannot appreciate the evidence which has already been recorded by the District Officer, Minority Affairs, North 24-Parganas, Barasat, justifying the rejection of the claim of the petitioner.

I do not find any error with the decision making process. However, as the petitioner has raised the dispute about the facts and claims that his name was deleted from the report by the DLIT with mala fide intention; and denies the question of tampering of the records, the same having been obtained from the office of the respondents themselves by way of an application under the Right to Information Act, this court is of the opinion that the truth should be unearthed.

Moreover, the petitioner submits that the DLIT could not have deleted or added to the information already provided by the M.S.K. at the time of making the application for approval.

As disputed questions of facts are involved, this Court in exercise of power provided under Article 226 of the Constitution cannot reappreciate the evidence.

Under such circumstances, liberty is given to the petitioner to approach the Director of Madrasah Education, West Bengal, i.e., the respondent no. 3 with his grievances. The said representation before the respondent no. 3 should be made within a period of 2 (two) weeks from date. Upon receipt of the said representation, the respondent no. 3 will examine the matter on the basis of the records produced by the petitioner, the Madrasah Siksha Kendra as also the District Officer, Minority Affairs, North 24- Parganas, Barasat, give opportunity of hearing to all concerned and pass a reasoned order. The reasoned order so passed should be communicated to all concerned. Such exercise will be completed within a period of 6 (six) weeks from the date of receipt of the representation of the petitioner.

This writ petition is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, shall be supplied to the parties as expeditiously as possible.