
(2002) 04 CAL CK 0009
In the Calcutta High Court
Case No : Writ Petition No. 8566 (W) of 2000

Shri Bikash Chandra Saha	Vs	APPELLANT
State of West Bengal and Others		RESPONDENT

Date of Decision : 09-04-2002

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 19, 21, 226

Citation : (2003) 1 CALLT 43

Hon'ble Judges : Mahemmad Habeeb Shams Ansari, J

Bench : Single Bench

Advocate : P.S. Deb Barman and Anjan Bhattacharyya, for the Appellant; L.C. Behani and N.C. Behani, for the Respondent

Judgement

M.H.S. Ansari, J.—Facts leading to the filing of the instant writ application in brief are as under:-

2. A prior permission was granted for filing up the post of clerk and therein it was specified that the post is reserved for Scheduled Caste candidates (annexure "D"). Petitioner is one of the candidates sponsored by the Employment Exchange and was found eligible to appear at the interview held on 7th February, 2000. It is the case of the petitioner that he was selected and placed at serial No. 1 of the panel (annexure "G") copy whereof was furnished to the petitioner by the school authorities upon request of the petitioner. From this said annexure "G" it will appear that the panel in the order of merit prepared on the basis of the interview held on 7th February, 2000 is as under:

Serial No.

Name

Marks obtained

1.

Bikash Chandra Saha

12.33-Petitioner

2.

Anil Kumar Bagdi

10.23-Respondent No. 6

3.

Tarun Kumar Das

9.93

3. The DIS (SE) by his order dated 26th April, 2000 (annexure "H") asked the school authorities to recast the panel by removing from the panel names of such candidates who bear the surname "Saha" as they are excluded from the Scheduled Caste. The school authorities, it appears recast the panel whereby the name of the petitioner was excluded despite being placed at serial No. 1 in the panel.

4. Added respondent No. 6 being the second empanelled candidate was offered appointment after the panel was approved by the DIS (SE) by his memo No. 1341/G dated 31st May, 2000 and post approval appointment was also accorded by the DIS (SE) in his memo No. 1607(3)/G dated 26th June, 2000 (annexure "R-3"). Added respondent No. 6 is accordingly functioning in the said post ever since.

5. The case of the petitioner as set out in the writ application and as urged before the Court by his learned advocate Mr. P.S. Deb Barman appearing along with Mr. Anjan Bhattacharyya is that the petitioner belongs to Schedule Caste and a certificate in that behalf has been issued by the competent authority to the effect that the petitioner "belongs to "Sunri" (excluding Saha)". The positive case of the petitioner is that the petitioner belongs to "Sunri" and which is a Scheduled Caste for which petitioner holds a certificate issued by the competent authority and based thereon petitioner's name was sponsored by the Employment Exchange as a Scheduled Caste candidate along with certain other candidates all belonging to Scheduled Caste and some of whom in the said list also have the surname "Saha". A copy of the list of names sponsored by the Employment Exchange has been annexed and marked as annexure "E" to the writ application upon which reliance has been placed by the petitioner to establish his case that the petitioner belongs to Scheduled Caste category.

6. When the matter was moved before Court on 24th July, 2000 following order was passed by this Court;

"Prima facie it appears from the judgment of the Supreme Court reported in Pankaj Kumar Saha Vs. Sub-Divisional Officer, Islampur and Others, , that "Saha" caste is expressly excluded from "Sunri" a scheduled caste notified in the notification issued by the President.

The writ petitioner in the instant case bears the surname "Saha". Prima facie, therefore, in the light of the said judgment of the Supreme Court the petitioner is not a scheduled caste candidate.

However, it was contended on behalf of the petitioner that the certificate issued to the petitioner is to the effect that he belongs to "Sunri" excluding "Saha". The contention, therefore, is that the petitioner is Sunri and is not Saha. The matter requires consideration in the writ application.

Also keeping in view the fact that the panel has been recast and the approved candidate has assumed charge with effect from 6.6.2000, I am not inclined to grant any interim direction as prayed for except that the appointment of such person shall be subjected to and abide by the result of the writ petition.

The petitioner shall implead such candidate upon the name being furnished by Mr. Behani, learned counsel appearing for the private respondents and liberty is also granted to amend the cause title for that purpose.

A copy of the writ petition shall, after carrying out the amendment, be served upon Mr. Behani by tomorrow.

Let the respondents file their affidavit-in-opposition within three weeks from date and reply, if any, be filed within one week thereafter.

Liberty to mention for early hearing."

7. Pursuant to the above orders, added respondent No. 6 filed his affidavit-in-opposition and annexing therewith the copy of the panel which was approved by the District Inspector of Schools (SE) in Memo No. 1341 dated May 31, 2000 (annexure R-1) wherein the name of the respondent No. 6 appears as the first in the order of merit. It must be stated here that annexure R-1 is the recasted panel. Annexure R-2 is the appointment letter dated June 2, 2001 and annexure R-3 as noticed supra, is the post appointment approval accorded by the District Inspector of Schools (SE) in favour of added respondent No. 6 dated June 26, 2000.

8. Mr. Behani, learned advocate appearing along with Mr. M.C. Behani for added respondent No. 6 reiterated the averments made in the affidavit-in-opposition and relying upon the annexures thereto contended that the added respondent has been duly appointed in terms of the Recruitment Rules and functioning since June 6, 2000 and, therefore, appointment of added respondent No. 6 being in accordance and in conformity with the Recruitment Rules cannot be disturbed. Mr. Behani has referred to and relied upon the Judgment of the Supreme Court in the case of Pankaj Kr. Saha, cited supra, in the order of Court dated July 24, 2000. It is the contention of Mr. Behani that in view of the said judgment of Supreme Court in Pankaj Kr. Saha's case, supra, the persons having the surname "Saha" are expressly excluded from the Scheduled Caste, "Sunri".

9. Mr. P.S. Deb Barman, learned counsel for the petitioner contended that the

order of DIS (SE) dated April 26, 2000, annexure "H" is wholly arbitrary and without jurisdiction and passed behind the back of the petitioner. The said order, it was submitted cannot be sustained as the Government in its subsequent circular dated September 15, 2000 has rescinded the earlier notification issued by it on January 4, 1999. It was, therefore, contended that as the notification dated September 15, 2000 has been issued by the State withdrawing the earlier notification dated January 4, 1999 and clarifying that "Sunri" having surname "Saha" are included in the Scheduled Caste, the entire action by the respondents based upon annexure "H" dated April 26, 2000 is liable to be declared illegal and void.

10. Mr. P.S. Deb Barman, learned advocate for the petitioner further contended that the subsequent notification dated September 15, 2000 issued by the State is based upon the Constitution Bench judgment of the Supreme Court in *Abhoy Pada Saha Vs. Sudhir Kumar Mondal*, . In view of the said judgment, petitioner cannot be denied the fundamental right of equal opportunity for being considered for the post in question. The Scheduled Caste Certificate, annexure "A" to the writ application issued by the Sub-Divisional Officer, Sadar, Birbhum is not issued by a competent authority and unless rescinded, it was strenuously urged by Mr. Deb Barman, the DIS (SE) cannot unilaterally deny consideration to the petitioner. Reliance has been placed by Mr. Deb Barman also upon an unreported judgment of the Division Bench of this Court dated August 17, 2001 in W.P. No. 878(W) of 2001 in support of the contention of the petitioner and more particularly with respect to the notifications issued by the State rescinding and withdrawing the earlier notification. The Division Bench declined to interfere with the subsequent notification which entitles the petitioner to be considered eligible for the post in question based upon the Scheduled Caste Certificate, annexure "A", it was contended.

11. On the other hand, Mr. Behani submitted that the judgments relied upon by the petitioner are distinguishable on the facts of the case as they are founded upon evidence with regard to the social status of the petitioner in that case. In the instant case, it was contended by Mr. Behani, there is no evidence on record to establish that the petitioner belongs to Sunri which is a Scheduled Caste. On the contrary, the surname of the petitioner is Saha which stands excluded from the category of Scheduled Caste in terms of the judgment of the Supreme Court in *Pankaj Kumar Saha Vs. Sub-Divisional Officer, Islampur and Others*, .

12. None has appeared on behalf of the school authorities or the State respondents. Nor any affidavit-in-opposition has been filed on their behalf. The averments in the writ application with respect to annexure "H" and recasting of the panel, thus, remain uncontroverted.

13. From the averments in the writ application as also the annexure thereto, it will be seen that the petitioner herein was issued a Certificate (annexure "H") by the competent authority certifying that the petitioner belongs to;

"..... the Sunri (Excluding Saha) community which is recognized as a Scheduled Caste under the Constitution (Scheduled Caste) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 as amended by the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956 and the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976."

14. Petitioner's name had been sponsored by the employment exchange for the post in question which was reserved for Scheduled Caste. Added respondent No. 6 was similarly sponsored by the employment exchange and his name also appears in the said List (annexure "E"). As already noticed supra, the list contains the names of candidates who belong to the Scheduled Caste and therein, there are certain candidates apart from the petitioner who bear the surname "Saha". From annexure "G", it will be apparent that the Selection Committee, which prepared the panel, placed the petitioner at serial No. 1 and added respondent No. 6 is the second empanelled candidate in the order of merit. The panel was submitted for approval of the DIS (SE) in terms of the Recruitment Rules. However, by his letter dated April 26, 2000 (annexure "H"), the DIS (SE) directed the school authorities to recast the panel excluding therefrom the names of the persons who bear the surname "Saha". Consequently, petitioner's name was deleted from the panel and a fresh panel appears to have been submitted by upgrading the second empanelled candidate which was approved by the DIS (SE) (annexure R-1) and pursuant thereto, added respondent No. 6 has been offered appointment. In the said post, added respondent No. 6 has been functioning since the date of his appointment. There is thus no doubt that the candidature of the petitioner has been rejected only on the ground that he bears the surname "Saha". Unless that action is justified in law, the appointment of added respondent No. 6 cannot be sustained.

15. It must be stated here that pursuant to the judgment of the Supreme Court in Pankaj Kr. Saha, cited supra, State issued a notification on January 4, 1999 which reads as under:-

"the undersigned is directed to refer to this Dept. Memo No. 350-TW/EC dated 15.6.1992 and to say that the Government has been receiving various references from different certificate issuing authorities regarding issue of Scheduled Castes certificate to "Saha" within the meaning of "Sunri (Excluding Saha)" in the context of the decision of the Hon"ble Supreme Court in SLP (C) No. 460 of 1996 (CC No. 113/96). In the context of the said order of the Hon"ble Supreme Court the matter was examined in consultation with the learned Legal Remembrances as to the extent of application of the said order in the matter of issue of Scheduled Caste certificates to those using the surname "Saha" and claiming to be an Scheduled Caste within the meaning of "Sunri (Excluding Saha)". Extract from opinion of learned legal remembrance in the matter is enclosed. It would appear from the said notification that "Sunri" having the surname "Saha" are not included as Scheduled Caste."

16. Annexure "H" dated April 26, 2000 is perhaps founded upon the said

notification of the State Government dated January 4, 1999 whereby it was notified that "Sunri" having surname "Saha" are not included in Scheduled Caste.

17. However, the said notification dated January 4, 1999 was subsequently withdrawn by another notification dated September 15, 2000 in view of the earlier decision of the Constitution Bench of the Supreme Court in *Abhoy Pada Saha Vs. Sudhir Kumar Mondal*, . It was clarified that pursuant to the said decision status quo of the old system of issuing Scheduled Caste Certificate to Sunris including those using the Saha may be maintained and that the order dated January 4, 1999 should be withdrawn.

18. In view of the said notification dated September 15, 2000 withdrawing the earlier notification based whereupon, the DIS (SE) passed orders for recasting the panel on April 26, 2000 (annexure "H"), the said order of DIS cannot be sustained.

19. However, on the authority of the judgment of the Supreme Court in *State of Maharashtra v. Milind*, AIR 2001 SC 393, the circulars issued by Government are of no consequence as the State has neither authority to amend nor alter the presidential order. A caste, it was declared, is a Scheduled Caste/Tribe only if it is included in the presidential order issued under Article 341/342 of the Constitution of India.

20. The question for determination, therefore, is whether the petitioner belongs to the Scheduled Caste notified in the presidential order.

21. The specific entry in the presidential order with which we are concerned in the case on hand, pertaining to scheduled caste in the State of West Bengal, reads as under;

"Sunri (excluding Saha)".

22. The Supreme Court has had occasion to consider the same in *Abhoypada Saha's* case, cited supra. It is a Constitution Bench judgment. The matter in that case arose out of an election dispute. The successful candidate (*Abhoypada Saha*) in the Legislative Assembly Election, the constituency being reserved for member of Scheduled Caste contested the election describing himself in the nomination paper as "a member of Sunri Caste" which is a Scheduled Caste. The unsuccessful candidate (*Sudhir Kr. Mondal*) objected contending that *Abhoypada Saha* did not belong to any Scheduled Caste. The objection was rejected by the Returning Officer and thereafter, *Sudhir* filed an election petition challenging the validity of *Abhoypada Saha's* election, inter alia, on the ground that *Abhoypada Saha* was a member of Saha caste and not a member of the Scheduled Caste. It was observed in the said judgment that the Election tribunal rejected the contention holding, inter alia, that the Sahas originally belong to Sunri caste but for a long time past they have formed themselves into a different caste which have no connection with the Sunris. The Election tribunal held that *Abhoypada Saha* to be a Sunri and a person belonging to the Scheduled Caste specified in the aforesaid

item in the presidential order. The tribunal declared that under that item Sahas are excluded from Sunri by way abundant caution.

23. In the said judgment it was noticed that this High Court took a contrary view and reversed the decision of the Election tribunal. It is stated that P.N. Mukherjee, J. observed that the expression "excluding" denoted that the Sahas contemplated would, but for this word, have come within the Sunn caste. He held that the Sahas formed "a group within the Sunri caste be it a sub-caste strictly so called or otherwise". He also held that the evidence did riot establish that the Sahas formed a sub-caste strictly so called within the Sunri caste or a caste wholly independent of the Sunri caste. He held that the expression "excluding Saha" referred to those Sunris who bore the surname "Saha" irrespective of whether they belong to sub-caste strictly so called Sunris or not. It was, therefore, concluded that as Abhoypada Saha bore the surname "Saha", he did not belong to the Scheduled Caste specified in the said item though he was a Sunri. The other learned Judge, Basu, J. held that the words "parts or groups within castes" in Article 341 were wide enough to refer to any determine part of a caste distinguished by a surname or otherwise and it was not necessary that such part may necessarily form a sub-caste. He also held that the evidence broadly supported "the conclusion that the respondent's family belongs to the Saha sub-caste or group within the Sunri caste" and was thereby excluded from the Scheduled Caste specified in the said item.

24. Their Lordships of the Supreme Court, however, found fault in the reasoning of the Election tribunal as also that of the High Court.

25. In so far as the conclusion arrived at by the tribunal was concerned their Lordships held in paragraph 9 as under:

"9. The tribunal came to its conclusion that "Saha" in the item referred to a caste distinct from Sunri caste because the evidence before it did not show that there was within the Sunri caste, a smaller caste group called Sahas. The error of the tribunal lay in interpreting the order in the light of the evidence before it..... If the correct interpretation of item 40 was, as we think it was, that Sahas were a caste group within the Sunri caste, no question of Sahas being a distinct class independent of Sunris could arise. The finding that Sahas were a wholly independent caste was altogether irrelevant to the point in issue. Evidence cannot alter the natural interpretation of the words in the Order."

26. Their Lordships also disagreed with reasoning of the High Court in the following terms:

".... we are unable to agree with the interpretation of the High Court that the Sahas excluded were those Sunris who bore the surname Saha. We think the learned Judges of the High Court also interpreted item 40 in the light of the evidence in the case. If the intention was to exclude from Sunris those members of that caste who bore the surname Saha, the item would have said so; it would then have read "Sunri excluding those who bore the surname Saha". In the

absence of such words "Saha" must, in the context, be understood as referring to a smaller caste group within the bigger caste group of Sunris. Surname is irrelevant as a text for applying item 40 unless it is shown that it indicated a smaller caste group of Sunris. It is nobody's case that there is evidence to show that...."

27. It is contended by Mr. Behani that in that case the judgment rested on the facts of that case. Their Lordships of the Supreme Court on the facts of that case stated thus:

"..... All the Courts in West Bengal, therefore, came to the conclusion that it had not been proved in this case that the appellant belonged to the smaller caste group of Sahas. We have no reason to take a different view of the evidence. The result then is, that the appellant is a Sunri by caste and has not been proved to belong to the smaller cast group of Sahas. He must be held to belong to the Scheduled Caste specified in item 40. That being so, the election petition must fail."

28. The matter, once again, came up before the Supreme Court (coram 2 Judges) in Pankaj Kumar Saha Vs. Sub-Divisional Officer, Islampur and Others, . That case arose out of an order passed by the Sub-Divisional Officer cancelling the Scheduled Caste certificate which had been issued in that case in identical terms as the Scheduled Caste certificate, annexure "A", in the case on hand. In that case the petitioner had been described as Saha and claimed the status of Sunri, a Scheduled Caste. Their Lordships of the Supreme Court in that case construed Article 336(24) which defined "Scheduled Castes":

"..... to mean such castes, races or tribes or part of or groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purpose of this Constitution. Article 341(1) provides that the President may with respect to any State or Union Territory and where It is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory, as the case may be".

29. Reference was thereafter made to the public notification called Scheduled Castes and Scheduled Tribes Order, 1950 as has been amended in 1976, after the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 was made. In the light thereof it was observed as under:

"..... As indicated earlier, Sunri (excluding Saha) is a Scheduled Caste for the purpose of State of West Bengal. The petitioner admittedly bears the name of Saha. The authorities found as a fact that for over a century the petitioner's family are Saha by caste. The President after consultation with the Governor, has excluded Saha a liquor business community as Scheduled Caste. Though some Scheduled Castes by name Sunri adopted tapping as profession, they suffer from untouchability while, Sahas, liquor business community like Sethi Balija, Edigal

or Gowda in Andhra Pradesh, are not Scheduled Castes. In the notice given to the petitioner details were given and the record produced before the authorities were considered by the competent authority which held that Saha are not the Scheduled Castes and that, therefore, they cannot be considered to be Sunris....."

30. The principle laid down in that case was thus:

".....The Courts would only look into the notification issued by the President to see whether the name finds place in the notification. Saha Caste is expressly excluded from Sunri, a Scheduled Caste notified in the notification issued by the President in relation to the State of West Bengal which is conclusive. The certificate issued to the petitioner is, therefore, clearly unconstitutional and a fraud on the Constitution. The petitioner cannot be considered to be a Scheduled Caste."

31. The matter on hand would have been concluded against the petitioner based upon the dicta as above.

32. It was, however, contended by Mr. Deb Barman that Constitution Bench judgment had not been placed before their Lordships in Pankaj Kr. Saha's case and, therefore, not considered. Being a judgment of the Constitution Bench, the same is binding on this Court and in that connection Mr. Deb Barman, learned advocate for the petitioner relied upon the Division Bench judgment of this Court in Boded Kr. Biswas v. State of West Bengal dated 17th August, 2001, The said matter arose out of a public interest litigation whereby the subsequent notification issued by the State Government dated September 15, 2000 had been questioned. In that public interest litigation the prayer was that State Government should be restrained from giving effect to the said notification dated September 15, 2000 and that a thorough enquiry should be made in the matter of all appointments on the basis of that notification. The Division Bench in its said judgment dated August 17, 2001 has extracted the notifications dated January 4, 1999 as also the subsequent notification dated September 15, 2000 (which have been extracted supra). After referring to the judgment of the Supreme Court in State of Maharashtra v. Milind, supra 2001 (1) SCC 4 : AIR 2001 SC 393 it was observed that there cannot be two opinions in the matter that the items in the Act, 1976 cannot be changed by the Court unless it is amended by the Parliament. The Court then posed the question for determination before it and answered the same as under:

"..... But the question before this Court is that whether the persons who are "Sunris" and using surname "Saha" will also be entitled to be a Scheduled Caste or not. This controversy has already been clarified by the Apex Court in the decision given in the case of Abhoy Pada Saha v. Sudhir Kumar Mondal (supra). In his case challenge was made to election of a successful candidate and the matter reached to the Apex Court and the Apex Court found that on the basis of the evidence which shows that the incumbent is a "Sunri" though he is using

surname "Saha". Therefore, their Lordships set aside the order of the High Court and maintained the election. Therefore, in this background the earlier notification of 4th January, 1999 was amended by the notification dated 15th September, 2000 and the old practice that in case it is satisfied that the incumbent is using surname "Saha" though he is a "Sunri" then in such cases a scheduled caste certificate can be issued to such candidates."

33. Their Lordships in the Division Bench then referred to Section 6 of the West Bengal Scheduled Caste and Scheduled Tribe (Identification) Act, 1994 (West Bengal Act No. XXXVIII of 1994) and observed:

Therefore, on the basis of the evidence, it is found that the incumbent who are "Sunris" though using surname "Saha" that will not change his cast. In terms of the power conferred by Section 12 of the West Bengal Scheduled Caste and Scheduled Tribes (Identification) Act, 1994 Rules has been framed known as West Bengal Scheduled Caste and Scheduled Tribes (Identification) Rules, 1995. Rule 3 of this Rules provides for the procedure for cancellation, impounding or revocation or certificate granted under the Act of 1994 if it is found to be illegal."

34. Their Lordships in the Division Bench held as under:

Therefore, in order to facilitate the aforesaid entry proper provisions has been made in the Act and the Rules so as to check the abuse of the surname, Hence, we are satisfied that there is no case made out by the petitioner for interfering in this public interest litigation and the same is dismissed with no order as to costs."

35. On the authority of the binding Judgment of the Division Bench which considered the two notifications as also the judgments of the Apex Court and threw out the challenge to the validity of the subsequent notification, the case of the petitioner cannot, in that view of the matter, be rejected on the basis of the judgment in Pankaj Kr. Saha's case. The Division Bench of this High Court considered the controversy as clarified by the Apex Court in the decision given in the case Abhoypada Saha.

36. However, as noticed supra, the judgment of the Supreme Court in Abhoypada Saha's case rested on the evidence. In that case based on which the Courts in West Bengal came to the conclusion that it had not been proved in that case that Abhoypada Saha belonged to a smaller caste group of Sahas. In the case on hand the material evidence is not before Court to arrive at a conclusion one way or the other as to whether the petitioner belongs to "Sunri" or a smaller caste group of "Sahas". The positive case, however, of the petitioner is that he belongs to Sunri caste.

37. In my view, therefore, the matter would require consideration by the statutory authorities namely, the Director of School Education who in terms of the Recruitment Rules is to consider approval/disapproval of panel and thereby as to whether the same have been prepared in accordance with law and adhering to the procedure under the Recruitment Rules.

38. In the result, writ application is being disposed of with directions upon the Director of School Education, respondent No. 2, as under;

39. The Director of School Education shall consider the impugned panel afresh in accordance with law and after calling for a report as also for the records based whereupon the Scheduled Caste certificate (annexure "A") was issued to the petitioner by the competent authority namely, Sub-Divisional Officer, Sadar, Birbhum. If the evidence already on record establishes that the petitioner though having the surname "Saha" belongs to "Sunri" caste and does not belong to the smaller caste group of Sahas, appropriate orders in the light of the judgment in *Abhoy Pada Saha Vs. Sudhir Kumar Mondal*, , shall be passed by the Director of School Education with respect to the panel in question as also with respect to the appointment already granted under the impugned panel to respondent No. 6. In the absence of any such evidence already on record based whereupon annexure "A" certificate was issued the matter will stand concluded by the judgment in *Pankaj Kumar Saha Vs. Sub-Divisional Officer, Islampur and Others*, .

40. After calling for the records from the competent authority, as directed above, an opportunity of hearing shall be afforded by the Director of School Education, respondent No. 2 herein both to the petitioner as also private respondent No. 6 and/or their respective advocates after giving them inspection of the record called for from the competent authority.

41. The matter shall thereafter be disposed of by the Director of School Education in accordance with law and by a reasoned speaking order which shall be communicated by him to the appearing parties by registered A.D.

42. The aforesaid exercise shall be completed expeditiously and preferably within a period of 4 (four) months from date of communication of a copy of this order.

43. The appointment of respondent No. 6 shall be subjected to and abide by the final decision of the Director of School Education, respondent No. 2 herein.

There shall, however, be no order as to costs.

Let urgent xerox certified copy of this judgment and order be furnished, if applied for, to the appearing parties on priority basis.