
(2018) 05 CAL CK 0142
In the Calcutta High Court
Case No : Writ Petition29337(W) of 2017

Swati Mondal

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 07-05-2018

Acts Referred:

Management of Sponsored Institutions (Secondary), 1972 — Rule 23
Constitution of India, 1950 — Article 226

Citation : (2018) 05 CAL CK 0142

Hon'ble Judges : SHEKHAR B. SARAF, J

Bench : Single Bench

Advocate : Saktipada Jana, Subrata Ghosh, Raja Ram Banerjee, Samik Kanti Chakraborty, Amit Kumar Nag

Final Decision : Disposed Of

Judgement

This is an application under Article 226 of the Constitution of India challenging the action of the school authorities in not issuing release order in favour

of the petitioner to pursue the B.Ed. course as a deputed candidate. The facts of the case are that the school authorities being respondent no.5 are

refusing to comply with several orders of the District Inspector of Schools (S.E.), South 24-Parganas being the respondent no.3 herein by categorical

orders dated June 21, 2017, August 18, 2017 and November 27, 2017 wherein the concerned District Inspector of Schools has specifically instructed

the school to issue "No Objection Certificate" in favour of the writ petitioner to pursue the B.Ed. course as deputed candidate as early as

possible as per Government Order being G.O. No.920/(24)-GA dated 19.07.2016.

Counsel on behalf of the school authorities submits that the order of the concerned District Inspector of Schools is de hors the rule and regulation and

therefore, cannot be implemented by the school authorities. He refers the affidavit filed by him affirmed on January 18, 2018 and submits the letter

dated December 12, 2017, written by the respondent no.5 being the Headmistress of Atul Krishna Roy Vidyayatan For Girls H.S., Sonarpur to

the writ petitioner explaining the reason for not granting the "No Objection Certificate". Counsel on behalf of the school authorities further

submits that the application for deputation is not as per the eligibility criteria provided in Memo No.982-Se/G dated 7th March, 1968. He relied on

clause (2) of the said memo which is provided below :-

"(2) It may be noted that a teacher whose deputation was approved on a previous occasion but who had failed at the B.T. Examination shall not be

eligible for further deputation. It may also be noted that a teacher who underwent training for B.T., Basic Training, Home Science Training, etc. shall

not be eligible for further training to other courses mentioned under Para 2. The application of a teacher, whose deputation was approved on a

previous occasion but who had to discontinue his studies on grounds of health or on other cogent grounds may, however, be considered on its own

merit."

Counsel on behalf of the school authorities further submits that the power to grant deputation of teachers is as per the Rules for Management of

Sponsored Institutions (Secondary), 1972. Rule 23 of the same provides the power of the committee and includes the right to depute teachers. I have

considered the submissions made by the Counsel on behalf of the appearing parties and gone through the materials on record. It is clear that Rule 23

of the said Rules for Management of Sponsored Institutions (Secondary), 1972 is subject to direction as the State Government may, from time to time,

issue.

It may further be noted that by Memo No.920/(24)GA/OM/4/2011(Pt) dated 19.07.2016, the Commissioner of School Education, West Bengal, has

empowered the District Inspector of Schools to look into the issuance of deputation of teachers of Class V to XII of the Junior High/High/Higher

Secondary schools. The order passed by the District Inspector of Schools (S.E.), South 24-Parganas, dated November 27, 2017, specifically refers to

this Government Order.

It may further be noted that the Memo cited by Counsel on behalf of the school

authorities clearly states that even a teacher whose deputation was approved on previous occasion but who had to discontinue his studies on grounds of health or on other cogent grounds, may, however, be considered on its own merit. Therefore, this memo is not a bar for the writ petitioner to apply once again for deputation. In light of the above discussions and reasons, it is clear that the respondent nos.4 and 5 are required to act as per the direction of the District Inspector of Schools (S.E.), South 24-Parganas.

Accordingly, the respondent nos.4 and 5 are directed to issue the "No Objection Certificate" in favour of the writ petitioner as per the order of the District Inspector of Schools (S.E.), South 24-Parganas within a period of four weeks from date of communication of this order. With the above direction, this writ petition is disposed of without any order as to costs. All parties are to act on the website copy of this order.