

(2012) 12 CAL CK 0056

Calcutta High Court

Case No: Writ Petition 25417 (W) of 2012

Joy Roy

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision: Dec. 7, 2012**Hon'ble Judges:** Harish Tandon, J**Bench:** Single Bench**Advocate:** Anjan Bhattacharya, for the Appellant; Ziaul Islam for the State, for the Respondent

Judgement

Harish Tandon, J.

An affidavit of service is filed; let the same be kept on record. The petitioner has impugned in this writ petition the order dated November 19, 2012 communicated to the petitioner vide Memo No. 1230/1(4) of even date, whereby the claim of the petitioner for reappointment in the lien vacancy was turned down.

2. The lien vacancy was created for a period from November 18, 2011 to July 6, 2012 for the post of an assistant teacher in History. The approval was duly accorded by following the rules prevalent at the relevant period of time. The petitioner was appointed against the said lien vacancy for the period as mentioned above. The said vacancy, however, continues and is extended for a further period of one year.

3. The petitioner prayed for reappointment on such lien vacancy as he has been rendering his services thereupon. Although the school authorities accorded permission, but approval to such reappointment was not accorded by the District Inspector of Schools concerned.

4. Challenging such inaction, a writ petition being W.P. 16620(W) of 2012 was moved by the writ petitioner. By order dated October 12, 2012, this court disposed of the said writ petition by directing the District Inspector of Schools (Secondary Education), Dakshin Dinajpur, to dispose of the matter regarding reappointment of the petitioner in the lien vacancy by passing a reasoned order within four weeks

from the date of presenting a copy of the certified copy of the order, after giving an opportunity of hearing to the petitioner as also the school authorities and after verifying the records.

5. It appears from the record that the said order was communicated to the District Inspector of Schools concerned by the learned advocate appearing for the petitioner, but the same does not include the copy of the certified copy of the said order. In turn, by memo being No. 2117 dated November 1, 2012, the District Inspector of Schools (Secondary Education), Dakshin Dinajpur, requested the learned advocate for the petitioner to provide the certified copy of the order passed by this court.

6. Surprisingly, the said authority, without looking into the said order, proceeded to take a decision in the matter, which, in my view, is absolutely illegal, arbitrary and cannot require meticulous scrutiny. If the authority was unable to proceed for want of certified copy of the order passed by this court, there is no justification in proceeding in haste and to take a decision.

7. The learned advocate appearing for the State respondents, fairly, submits that no opportunity of hearing was afforded to as was directed in the order passed in the earlier writ petition.

8. I once again record that the authorities are required to act fairly and should not decide the matter, which appears to be contrary to the order and/or directions passed by this court. The copy of the order passed in the earlier writ petition is annexed to this writ petition. Therefore, there is no impediment on the part of the said authority in complying with the directions made therein.

9. The order impugned in this writ application is, therefore, quashed and set aside.

10. The District Inspector of Schools (Secondary Education), Dakshin Dinajpur, is hereby directed to consider the matter afresh strictly in terms of the order dated October 12, 2012 passed by this court in W.P. No. 16620(W) of 2012 within a period of four weeks from date.

11. By way of abundant caution, it is hereby recorded that this court has no opportunity to go into the merits and demerits of the claim and the counter claim of the parties involved in this writ petition and the said authority shall be free to decide the matter without being influenced by any of the observations made herein.

12. With the aforesaid directions, the writ petition is disposed of without, however, any order as to costs.

13. It is made clear that since the writ petition is disposed of at the motion stage, the allegations contained therein are not deemed to have been admitted by the respondents. To expedite the matter, the learned advocate appearing for the petitioner is directed to communicate the electronic copy of this order together with

a copy of this writ petition upon the District Inspector of Schools (Secondary Education), Dakshin Dinajpur, by Monday next.