

26.11.2018

*Sl.No. 08
Ct.No.18
Acharya*

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

MAT 803 of 2018

**The West Bengal Madrasah Service Commission
Vs.
Naimouza Sub-Hania Jr. Girls'
High Madrasah and others**

Mr. Kamalesh Bhattacharyya
Mr. P. Mukherjee
Mrs. Madhurima Sarkar

...for the appellant

Mr. Tarapada Halder

...for the respondent/
Madrasah Board

Md. T.M. Siddiqui
Mr. Nilotpal Chatterjee

...for the State respondents

Mr. Ekramul Bari
Mr. Khairul Alam

...for the respondent/writ petitioner

Re.: CAN 5883 of 2018 (stay)

This connected application (CAN 5883 of 2018) for stay was canvassed before us for a considerable length of time.

The applicant, the West Bengal Madrasah Service Commission has filed the instant application wanting in effect implementation of the order of the Supreme Court dated 17th May, 2018. We are told that the appeal in the Supreme Court is

awaiting consideration sometime in the first week of December, 2018 or soon thereafter.

There is also a bone of contention regarding some factual matters stated in the said order of the Supreme Court dated 17th May, 2018.

According to Mr. Bhattacharyya, learned senior counsel for the Madrasah Service Commission the 2600 vacancies referred to in the said order of the Supreme Court have been filled up. The vacancies, which have arisen, are new and subsequent to the year 2014.

Therefore, in our considered view this court should approach the matter in a judicious way and proceed step by step.

We dispose of the connected stay application by expediting the appeal.

As the respondents are represented by learned counsel, issuance and service of the notice of appeal are dispensed with.

The advocate on record for the appellant is to prepare and file the requisite number of informal paper books by 8th January, 2019, serving one copy thereof on the advocate on record for the respondents at least 5 days before the date of hearing of the appeal.

All other formalities regarding preparation of paper books are dispensed with.

List this appeal for hearing on 17th January, 2019.

As the appellant did not get any chance to file any affidavit-in-opposition before the court below, the stay petition is treated as the affidavit-in-opposition and may be included in the paper book.

Stay of the impugned order till the disposal of the appeal except those parts, which are the subject matters or are covered by the directions of the Supreme Court dated 17th May, 2018.

The application for stay (CAN 5883 of 2018) is, accordingly, disposed of.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(I. P. Mukerji, J.)

(Subhasis Dasgupta, J.)