30.08.2019
srm

W.P. No. 24096 (W) of 2018
Kazi Sahabaz Ahamed & Ors.
versus
The State of West Bengal & Ors.

With

W.P. No. 11977 (W) of 2018
Mijanur Rahaman Ansari & Ors.
Versus
The State of West Bengal & Ors.

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chatterjee,
Mr. Santanu Maji,
Ms. Snigdha Saha

…for the Petitioners.

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar

…for the Madrasah Service Commission.

190 similarly situated persons have joined together in these two writ petitions for a common relief and the same is quoted below:

> "a) Grant kind leave of this Hon'ble court under clause 12 to move this application under Rule 12 Appendix – IV of the Appellate Side Rules to move the instant writ petition jointly in a representative capacity;
> b) A writ of and/or in the nature of mandamus directing the Respondent Commission to fill up all the vacancies which have cropped up till the September 5, 2016 so that the petitioners are rightfully appointed as Assistant Teachers under the said commission;

c) A writ of and/or in the nature of mandamus directing the Respondent Commission to include all the willing Madrasahs and disclose their vacancies for appointment of teachers in terms of orders passed by Hon'ble Supreme Court on 17.05.2018 in C.A. No.5808 of 2017;

d) A writ of and/or in the nature of mandamus directing the Respondent Commission to include the vacancies as on 05.09.2016, the date on which the written examination of 6th SLST result was declared and appointment to be given to the petitioners on the basis of the said vacancy;

e) A writ of and/or in the nature of mandamus directing the Respondent Commission to prepare list of all qualified candidates who attended in personality test and retain them in the panel so that the existing or incurred vacancy could be filled from the said panel in terms of Rule 24 of Chapter VIII of the Rules;

f) A writ of and/or in the nature of mandamus directing the Respondent Commission to publish a waiting list and a list of empanelled candidates;

g) A writ in the nature of Certiorari directing the respondents, their agents, their subordinates or their assigns to transmit the entire records of this to the Hon'ble Court so that on perusal of the same a conscionable justice may be done;

h) Rule NISI in terms of prayers (a), (b), (c), (d) and (e) above;

i) Costs and incidentals;

j) Pass such further order or orders as Your Lordships may deem fit and proper."

In the meantime, the following petitioners have been granted appointment for a separate post other than the posts connected to these two writ petitions they are:- Kiran Saha, Jamir Shaikh, Jiaul Al Mamun, Md. Jinarul Islam, Mostafa Sarkar, Tarun Kumar Mondal, Motiar Hossain, Utpal Kumar Pati, Niladri Sekhar Satpati, Masuma Khatun, Nazrul Islam, Nargis Parvin.

Thus, it is prayed on behalf of the said petitioners that they do not want to contest the instant proceedings as they have already been selected. It is contended on behalf of the other petitioners that as there are existing vacancies and some of the petitioners are waitlisted candidates and as such they should be given a chance for being considered for appointment.

Mr. Mukherjee, learned Advocate appearing on behalf of the Madrasah Service Commission, submits that as the petitioners were unsuccessful in the personality test their candidatures could not be considered at the stage of selection. He, however, submits that the petitioners have already filed representations before the Chairman, West Bengal Madrasah Service Commission dated March 27, 2019 with a prayer for being considered for recommendation against the remaining vacancies out of 3183 vacancies declared by the Commission.

At this juncture, the learned Advocate for the petitioners fairly submits that at least the Chairman may be directed to consider the representation of the petitioners.

Under such circumstances, without going into the merits of the claim and counter claim of the parties, these writ petitions are disposed of with a direction upon the Chairman, West Bengal Madrasah Service

Commission to consider and dispose of the representation of the petitioners, other than the petitioners who have been appointed as mentioned hereinabove, in accordance with law upon hearing the petitioner No.1 along with the learned Advocate of the petitioners who will represent all the petitioners before the authority concerned. A combined reasoned order should be passed by the authorities and communicated each of the petitioners whose cases will be considered.

The entire exercise should be completed within a period of six weeks from the date of the communication of this order.

These two writ petitions are, thus, disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)