

**MAT 742 of 2024**  
**with**  
**IA No. CAN 1 of 2024**

Nahida Nashrin Sarkar  
vs.  
State of West Bengal & Ors

**Mr. Gourav Das**  
**Ms. Tapati Sarkar**

**....For the Appellant.**

**Md. Sarwar Jahan**  
**Sk. Nayeemuk Haque**  
**Mr. Asif Mehdi**

**....For the Respondent.**  
**3/D.P.S.C.**

**Mr. Arindam Chattopadhyay**  
**Mr. Lipika Chatterjee**

**....For the State.**

Affidavit-of-service filed by the appellant be kept on record.

The present appeal has been filed challenging an order dated 21<sup>st</sup> March, 2024 passed by the learned Single Judge in the writ petition being WPA 724 of 2024 preferred by the writ petitioner/appellant herein challenging a memo dated 15<sup>th</sup> December, 2023 issued by the Secretary, Murshidabad District Primary School Council (hereinafter referred to as the Council).

Mr. Das, learned advocate appearing for the appellant submits that the denial of the appellant to join the post of head teacher in the selection process of the year 2018 could not have been a bar towards denial of selection and appointment to the post of head teacher in the selection process of the year 2023 moreso when the appellant could not join in the

concerned school as head teacher in the previous selection process due to her ill health and as the concerned school was situated in the border area and far away from her residence. In support of such contention, he has drawn our attention to the provisions of Rules 14, 15 and 16 of the West Bengal Primary School Teachers Recruitment Rules, 2016 (hereinafter referred to as the 2016 Rules).

He argues that the selection process for appointment to the post of head teacher is conducted on the basis of seniority and in terms of the 2016 Rules such selection is required to be conducted '*every year on the basis of the vacancies occurred or due to occurred within 31<sup>st</sup> December of the said year*'. Such arguments, as advanced, before the learned Single Judge were glossed over and no finding was returned. The appellant's prayer was refused even though it was submitted on behalf of the Council that the appellant can be appointed in the existing vacancies pertaining to the year 2023.

Mr. Chattopadhyay, learned advocate enters appearance on behalf of the State respondents.

Mr. Jahan, learned advocate appearing for the Council submits that in the selection process of the year 2023 there were 39 vacancies and as three candidates did not accept the posting, upon

counseling, presently there are three existing vacancies in Raninagar – I Circle.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that the appellant in spite of being successful in the selection process of the year 2013, could not join the post of head teacher at 79, Char Begumpur Primary School due to her ill health and since the school was situated on the border area and far away from her residence. The 2016 Rules reveal that the selection process is undertaken each year on the basis of seniority. There is nothing in the 2016 Rules debarring a teacher, who does not join the post of head teacher on the basis of empanelment in a particular year, from being considered for selection and appointment to the post of head teacher in a fresh selection process of a subsequent year.

In view thereof, the order dated 15<sup>th</sup> December, 2023 passed by the Secretary of the Council and the order impugned in the present appeal are set aside.

As there are three existing vacancies in the post of head teacher in Raninagar – I Circle, the Council is directed to summon the appellant for counseling to enable her to choose any one of the vacant posts of

head teacher and to appoint the appellant in the concerned vacancy.

The above exercise shall be completed within a period of four weeks from the date of communication of this order.

With the above observations and directions, the appeal and the connected application are disposed of.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

**(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)**