

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 5745 OF 2019
(Arising out of SLP (C) No. 2825/2019)

NIHAR BISWAS & ORS.

Appellant(s)

VERSUS

THE STATE OF WEST BENGAL & ORS.

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties and perused the pleadings.

We are not satisfied with the manner of disposal of the writ petition by the learned single judge vide order dated 19.7.2017. It appears that no counter affidavit was even called for and it has been observed that the allegations in the writ petition are not admitted.

We now have the benefit of counter affidavit of the respondents. The stand of the respondents is in consonance with the question framed by the learned single judge. On account of various controversies, a fresh examination was held by the District Primary School council, North 24 Parganas for appointment of Assistant Teachers and a panel was prepared. This panel was provisionally approved by the Deputy Director, vide its memo dated 17.6.2015 but was to

abide by the decisions of certain petitions which were still pending consideration before the Calcutta High Court. Apparently those petitions were dismissed while the panel prepared is stated to have worked out and consequently appointments were not made. The stand sought to be taken by the respondents is that the life of the panel does not commence until its publication and that the provisional approval of the panel dated 17.06.2015 would not extend the life of the panel. This is the sole defence in the counter affidavit.

On a perusal of the impugned order, we find that the Division Bench in an elaborate judgment while remitting the matter to the learned Single Judge has sought to raise 12 questions of law in para 30, which in our view, were not called for. We are thus enable to even sustain the impugned order.

We are of the view that the matter ought to be remitted to the learned Single Judge within the contour of the limited defence raised by the respondents before us i.e. whether the life of the panel continues, specially as there were earlier interdict of the court which was subsequently dissolved. We may also note that the respondents in their wisdom decided to hold the examination pending those proceedings and are now seeking to contend as if the life of the panel elapsed by reason of the time span in view of the matters pending in the court. We however, say no more.

We thus remit the matter to the learned single judge to decide it on merits within the aforesaid contour.

The matter has been pending for many years and while we would loathe to either direct or request the High Court for early disposal of the matter, we do believe that this is an exceptional case where we can request the learned single judge of the High court to consider the matter as expeditiously as possible to put an end to this long drawn litigation where the appellants are waiting for their jobs.

The appeal is allowed in the aforesaid terms. Parties to bear their own costs.

.....J.
(SANJAY KISHAN KAUL)

.....J.
(K.M. JOSEPH)

NEW DELHI;
JULY 22, 2019

ITEM NO.45

COURT NO.13

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 2825/2019

(Arising out of impugned final judgment and order dated 12-10-2018 in FMA No. 1615/2018 passed by the High Court At Calcutta)

NIHAR BISWAS & ORS.

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL & ORS.

Respondent(s)

(FOR ADMISSION)

Date : 22-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Vijay Hansaria, Sr. Adv.
Mr. Gaurav Jain, Adv.
Ms. Abha Jain, AOR

For Respondent(s) Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Suhaan Mukerji, Adv.
Ms. Astha Sharma, Adv.
Ms. Sanskriti Pathak, Adv.
Mr. Amit Verma, Adv.
Mr. Prastut Dalvi, Adv.
Ms. Dimple Nagpal, Adv.
Mr. Naveen Kumar, Adv.
M/S. Plr Chambers And Co., AOR

Mr. S. K. Bhattacharya, AOR
Mr. L.K. Paonam, Adv.
Ms. Seema Sharma, Adv.
Mrs. Tomthinnganbi Koijam, Adv.
Mr. Niraj Bobby Paonam, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, also stand disposed of.

(NEELAM GULATI)
COURT MASTER (SH)

(ANITA RANI AHUJA)
COURT MASTER (NSH)

(SIGNED ORDER IS PLACED ON THE FILE)