

Commission and Others Vs. Syed Shah Abul Basar MohiddIn Md.

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Court : Kolkata

Decided On : Nov-07-2013

Judge : Nadira Patherya

Appellant : Commission and Others

Respondent : Syed Shah Abul Basar MohiddIn Md.

Judgement :

ORDER

SHEET GA No.57 of 2013 APOT No.20 of 2013 WP No.257 of 2005 IN THE HIGH COURT AT CALCUTTA Civil Appellate Jurisdiction ORIGINAL SIDE WEST BENGAL CENTRAL SCHOOL SERVICE COMMISSION & OTHERS Versus SYED SHAH ABUL BASAR MOHIDDIN Md.ZABER & OTHERS BEFORE: The Hon'ble JUSTICE PATHERYA The Hon'ble JUSTICE TAPASH MOOKHERJEE Date : 7th November, 2013.

Mr.Joytosh Majumder, Ms.Debjani Roy, Adversus for the State Mr.Subir Sanyal, Mr.Sakti Pada Jana, Adversus for respondent/writ petitioner Mr.S.M.Hassan, Adv.for Madrasa Service Commission The Court : The order under appeal is dated 11th September, 2012.

For the post of headmaster a panel was prepared and the writ petitioner/respondent placed at serial No.2 while the private respondent was placed at serial No.1.

Although the name of the private respondent was recommended by the School Service Commission, the private respondent joined at Pandua Sashibhushan Saha Uchha Vidyalaya [HS].and therefore the question of granting appointment to him did not arise.

Therefore the next thing for the School Service Commission was to recommend the name of the writ petitioner but the same was not done and W.P.257 of 2005 was filed.

This writ petition was disposed of by order dated 11th September, 2012 wherein the appellant was directed to recommend the name of the writ petitioner who was placed at serial No.2.

It has been contended by counsel for the appellant that since 2009 it is not empowered to make any recommendation which at present is within the domain of the Madrasa School Commission as the appointment is in respect of a headmaster in a Madrasa.

It is only since 2009 that the appellant has been divested of its jurisdiction to recommend but for the period prior thereto it was within the jurisdiction of the appellant to make such recommendation and the appointment is for the period pre 2009.

The appellant therefore would be entitled to make recommendation.

Accordingly, order dated 11th September, 2012 calls for no interference except to the extent of the said clarification that the higher marks secured by the writ petitioner is in respect of his academic qualification and in no way relates to the marks obtained by him either in the written test or in the viva.

As time has expired for carrying out the 2 direction contained in the order dated 11th September, 2012, such time is extended by four weeks from the date of receipt of this order.

In view of the aforesaid, the appeal and application both stand disposed of.

As no affidavit-in-opposition has been filed, the allegations contained in the petition are not admitted.

All parties to act on a signed photocopy of this order on the usual undertakings.

(PATHERYA, J.) (TAPASH MOOKHERJEE, J.) TR/ 3

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