

ITEM NO.53

COURT NO.9

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

Civil Appeal No(s).5808/2017

SK. MD. RAFIQUE

Appellant(s)

VERSUS

MANAGING COMMITTEE, CONTAI RAHAMANIA HIGH  
MADRASAH & ANR.

Respondent(s)

(With appln.(s) seeking impleadment as party petitioner &  
impleadment)

WITH

C.A.No.5809/2017 (XVI)

C.A.No.5826/2017 (XVI)

C.A.No.5817/2017 (XVI)

C.A.No.5814/2017 (XVI)

(With appln.(s) for clarification/direction and impleading  
party)

CONMT.PET.(C) No.583/2016 In SLP(C) No.6661/2016 (XVI)

C.A.No.5829/2017 (XVI)

W.P.(C)No.723/2016 (X)

CONMT.PET.(C) No.846/2016 In SLP(C) No.6661/2016 (XVI)

C.A.No.6098/2017 (XVI)

CONMT.PET.(C)No.670/2017 In SLP(C) No.6661/2016 (XVI)

CONMT.PET.(C)No.669/2017 In SLP(C) No.6661/2016 (XVI)

(With appln.(s) for appropriate orders/directions)

CONMT.PET.(C) No.828/2017 In SLP(C) No.6661/2016 (XVI)

CONMT.PET.(C) No.1509/2017 in C.A. No.5808/2017 (XVI)

W.P.(C)No.629/2017 (X)

W.P.(C)No.742/2017 (X)

(With appln.(s) for stay)

CONMT.PET.(C) No.1798/2017 in C.A.No.5808/2017 (XVI)

CONMT.PET.(C) No.937/2018 in C.A.No.5808/2017 (XVI)

CONMT.PET.(C) No.938/2018 in C.A.No.5808/2017 (XVI)

W.P.(C)No.348/2018

W.P.(C)No.351/2018

Date : 17-05-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s) CA 5808	Mr. Jayant Bhushan, Sr. Adv. Mr. Zoheb Hossain, AOR
State	Mr. Mohan Parasaran, Sr. Adv. Mr. Zoheb Hossain, AOR Ms. Adeeba Mujahid, Adv.  Mr. Kalyan Bandopadhyay, Sr. Adv. Mr. Khairul Alam, Adv. Mr. Sabir Ahmed Mondal, Ad. Mr. Anindo Mukherjee, Adv. For Mr. Rameshwar Prasad Goyal, AOR  Mrs. Sarla Chandra, AOR Mr. Ranjan Mukherjee, AOR Mr. Chanchal Kumar Ganguli, AOR Mr. Abhijit Sengupta, AOR Mr. Kunal Chatterji, AOR
Applicants	Mr. Raju Ramachandran, Sr. Adv. Mr. Huzefa A. Ahmadi, Sr. Adv. Mr. M.R. Shamshad, Aor Mr. Aditya Samaddar, Adv.
For Respondent(s)	Mr. Salman Khurshid, Sr. Adv. Ms. Sarla Chandra, Adv.  Mr. Pijush K. Roy, Adv. Ms. Kakali Roy, Adv. Mr. Rajan K. Chourasia, AOR  Ms. Anita Kanungo, AOR
Intervenor	Mr. Dipak Kumar Jena, AOR Ms. Minakshi Ghosh Jena, Adv. Mr. Swapnil Vyas, Adv. Mr. J. Das, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

1. After hearing learned counsel for the parties at length and particularly, considering the interest of the education of children, we propose to pass the order. It was stated that more than 2600 vacancies are existing in the Madrasahs. Due to acute shortage of teachers, the

cause of education is at sufferance. Considering the fact situation which has been created by the legal imbroglio in the case, we deem it appropriate to pass this order relaxing the earlier order, putting a restraint upon the declaration of the result with respect to the recruitment process initiated in the year 2014.

2. It was submitted before us by Mr. Kalyan Bandopadhyay, learned senior counsel appearing on behalf of appellants, and also supported by Mr. Mohan Parasaran, learned senior counsel appearing on behalf of the State, that Madrasahs, which are willing to appoint, may be permitted to appoint the incumbents on the basis of selection made by Commission. Prayer made is reasonable as it has become very difficult for various Madrasahs to impart education in an effective manner, due to large number of vacancies which could not be filled up for several years due to litigation in question.

3. At the same time, it was pointed out by Mr. Salman Khurshid, learned senior counsel, and other learned counsel appearing on behalf of the incumbents who are working in various Madrasahs, that they have not been paid their salaries inspite of the orders passed by this Court from time to time for disbursement of their salaries. It was pointed out by Mr. Mohan Parasaran, learned senior counsel, that certain incumbents are not found to be eligible, as such their salaries have not been disbursed. It appears that pursuant to the order passed by the Division Bench of

the High Court, the State Government has come up with a Notification dated 3.3.2016, prescribing the eligibility conditions for appointment containing education qualification for the teachers to be appointed by the Madrasahs.

4. In view of Notification dated 3.3.2016, we order that in case incumbents, who are working, are possessing the qualification, as prescribed by the State Government in its aforesaid Notification, the payment shall be made to them and they shall not be deprived of their dues. Let this order be complied with respect to the payment of salaries also within a period of two months from today, as assured in all fairness by Mr. Mohan Parasaran appearing for the State of West Bengal. Even if the teachers had not been paid for the period prior to 3.3.2016, they shall be paid their dues for the period they have served. It is made clear that all the incumbents shall be paid their dues in terms of this order whether they have approached this Court or not and this order to be applied to all similarly situated incumbents.

5. As there are large number of vacancies existing in the various Madrasahs, we permit the declaration of the result for the recruitment process of the year 2014. However, no further recruitment process shall be undertaken. It is also stated by the State Government and Commission that only those Madrasahs who want to take the incumbents from the list of 2014 process, the Commission

shall sponsor the names only to such Madrasahs, not to others. The process shall be done strictly and in accordance with the merit list of the candidates and the appointment so made, shall be subject to the final outcome of the case.

6. It was stated that there are certain incumbents, who were selected in the recruitment process of 2013 also, are also awaiting their appointments. Let the appointment be made in the institutions which are willing to take such teachers, however, strictly in order of merit and that shall be subject to the final outcome of these matters.

7. No equity shall be claimed on the basis of the appointment so made on stop-gap arrangement. Let such conditions be also mentioned in the order and that would be subject to the final outcome of these matters, and that may also be specifically incorporated in the order.

7. As the case has already been heard in part on several dates, list for further hearing on 12.7.2018 at 2.00 p.m.

(Sarita Purohit)  
Court master

(Jagdish Chander)  
Branch Officer