

ML- 19.07.2022
183 Ct.15
rkd

W.P.A. 15949 of 2019
(IA NO: CAN 1 of 2020)

Sri Chanchal Kumar Basu
-vs-
The State of West Bengal & Ors.

Ms. Pampa Dey (Dhabal)

....for the petitioner.

Mr. Avishek Prasad

....for the State.

Petitioner has claimed to be an Organizing teacher in a school which was recognized as IV Class Junior High with effect from 1st January, 1986. The said school was subsequently upgraded as High School with effect from 1st May, 2001.

Ms. Dey (Dhabal), learned advocate representing the petitioner upon placing reliance on the inspection report prepared on the basis of inspection dated 7th March, 1987, has submitted that name of the petitioner is appearing at serial no.8 in the list of names of organizing teaching staff, therefore, by this time he should have been accommodated against one sanctioned vacancy of assistant teacher in the recognized school which has wrongly not been done denying the right of the petitioner to get approval of appointment being a *bona fide* organizing teacher.

Accordingly, it has been prayed for approval/regularization of service of the petitioner as assistant teacher in the said school based on the said inspection report wherein name of the petitioner is appearing as one of the organizing teachers. The claim of the petitioner for approval/regularization has been spurned by the concerned District Inspector of Schools (SE), Barrackpore, being the respondent no.5 vide order dated 13th March, 2018. Petitioner has also prayed for cancellation of such decision.

This Court has heard the learned advocates representing the parties and perused the relevant materials available on record.

The school in question was recognized as IV Class Junior High on and from 1st January, 1986 and accordingly six posts of assistant teachers were created wherein petitioner could not be accommodated since his name was appearing at serial no.8 in the said inspection report and first six candidates whose names featured in the said inspection report based on seniority as organizing teachers were approved. Subsequently, the school was upgraded as High School upon introduction of Classes IX and X with effect from May, 2001 but it appears from the decision of the respondent no.5

the name of the petitioner was not appearing in the DLIT report which was considered by the authority prior to upgrading the said school.

Since the petitioner, in consideration of his position in the said inspection report, did not come within the zone of consideration, his case could not be considered by the authority for approval at the time of recognition of said school as IV Class Junior High and subsequently since the petitioner did not feature in the DLIT report prior to upgrading the said school his case for grant of approval could not be decided in his favour.

In addition thereto, the law relating to regularizing the service of organizing staff in a school which receives recognition has been settled by the Hon'ble Division Bench vide judgment dated 6th July, 2018 delivered on an intra court appeal being MAT 1626 of 2017 (**The District Inspector of Schools (SE), Burdwan & Ors. -vs- Abdul Barik Shaikh & Ors.**), wherein it has been succinctly decided by the Hon'ble Division Bench in paragraph 19 which runs infra:

“Applying the law laid down here, we hold that Manindra Nath Sinha (supra) having been affirmed by the Supreme Court, all Benches of this Court in cases involving

similar fact situation are bound to follow the same as a binding precedent and any decision of a learned Judge or Judges, which runs counter to the dicta in Manindra Nath Sinha (supra), Smritikana Maity (supra), Gita Banik and Gopal Singh (supra), is not good law.”

In view of aforesaid situation, no relief can be granted to the petitioner and accordingly, the writ petition stands dismissed.

In view of dismissal of the writ petition connected application being CAN 1 of 2020 also stands dismissed.

However, There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)