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W.P.A. 22707 of 2014

Humayun Kabir

-vs-

The State of West Bengal & Ors.

+ WPA 22709 of 2014

Prasanta Kr. Mondal

vs-

The State of West Bengal & Ors.

+WPA 22715 of 2014

Md. Faijuddin Sk.

vs-

The State of West Bengal & Ors.

Mr. Balai Lal Sahoo

... for the petitioners.
(in all the writ petitions)

Mr. K.M.Hossain

....for the State.
(in WPA 22709 of 2014)

Mr. Riaz Abedin

... for the added respondents
(in all the writ petitions)

Three writ petitions are analogously taken up for consideration in presence of the learned advocates representing the petitioners and State respondents. Petitioners have filed affidavits of service pursuant to the order dated 5th December, 2022 which are taken on record.

It has been urged on behalf of the petitioners by Mr. Sahoo, learned advocate that subject matter of challenge and the relief as claimed thereunder is common in these three writ

petitions; the memo dated 18th July, 2013 issued by the District Inspector of Schools (SE), Birbhum, being the respondent nos. 6, has been questioned since proposal to induct three other candidates as approved teaching staff in consideration of their status as organising teachers in the school in question was forwarded to the Commissioner of School Education, West Bengal, and petitioners have also prayed for approval of their appointments as organising teaching and non-teaching staff. Those three candidates, proposal of whom was sent to the Commissioner of School Education, West Bengal, vide memo dated 18th July, 2013 have been subsequently impleaded as additional respondents and they are also represented by learned advocate today.

It has been submitted on behalf of the petitioners in those three writ petitions that in cancellation of this memo dated 18th July, 2013 the present petitioners should have been approved for the posts of teaching and non-teaching staff in consideration of their services as organizing staff in the school in question. The school was recognised as class-IV junior high with effect from 1963 and was upgraded as high school (up to Class X) from 1st February, 2011. The petitioners were appointed

in the upgraded section of the school in question, therefore, according to the petitioners, they are entitled to be granted approval as bona fide organising teaching and non-teaching staff from the date of upgradation of the said school.

Mr. Abedin, learned advocate, representing the additional respondents has submitted on instructions that though the proposal was sent by the respondent no.6 to the Commissioner of School Education, vide memo dated 18th July, 2013 but the same was not accepted and they were not engaged as approved teaching and non-teaching staff of the said school in consideration of their service rendered as organising staff.

Mr. Hossain, learned advocate representing the State respondents in WPA 22709 of 2014 has submitted that apart from the proposal being sent by the respondent no. 6 vide memo dated 18th July, 2013 to the Commissioner of School Education, the case of the petitioners for grant of approval as organising teaching and non-teaching staff was spurned by the respondent no. 6 by issuing memo dated 20th June, 2013 and such decision of the respondent no. 6 as contained in the said memo dated 20th June, 2013 has not been assailed in the writ petition.

This Court on hearing the learned advocates representing the parties and on perusal of the relevant records finds that there is no specific challenge being thrown to the memo dated 20th June, 2013 issued by the respondent no. 6 whereby the claim of the petitioners for being bona fide organising teaching and non-teaching staff was spurned and in absence of challenge being thrown to such decision of the respondent no. 6, the issue raised in this writ petition relating to grant of approval in favour of the petitioners cannot be delved into.

Furthermore, it transpires that the petitioners approached this Court by filing three separate writ petitions on being aggrieved by the memo dated 18th July, 2013 issued by the respondent no. 6 whereby the proposal in respect of the additional respondents were sent to the Commissioner of School Education, for approval. Today it appears in consideration of the submissions made by the additional respondents that those three candidates were not granted approval of appointment being organising teachers, therefore, the claim of the petitioners for grant of approval could have only been considered on contemporaneous challenge being thrown to the

memo dated 20th June, 2013 of the respondent no.6 rejecting the case of the petitioners for grant of approval being organising teaching and non-teaching staff.

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 petitioners and accordingly three writ petitions stand 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.)