

08 14.8.2023

Ct-08

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MAT 96 of 2017
with
I.A No. CAN 1 of 2017(Old CAN No. 824 of 2017)

Minhaj Uddin Molla
Vs.
State of West Bengal & Ors.

Mr. Ekramul Bari
Sk. Intiaj Uddin
... For the Appellant

1. We have heard the learned counsel appearing for the appellant. We have considered the judgment impugned.

2. It appears that the School Service Commission has acknowledged that appointments given to three different persons were done wrongly and in violation of regulation. The petitioner is similarly situated and circumstanced as that of those three persons. We are in agreement with the observation made by the learned Single Judge that since the three persons were given appointment wrongly, the petitioner cannot be considered for such appointment on the ground of negative equality. It is well established that the equality clause enshrined in Article 14 of the Constitution is a positive concept and cannot be applied in the negative. **(Mangalam Organics Ltd. Vs. Union of India (UOI) reported in 2017 (7) SCC 221)**

3. On such consideration, the appeal being MAT 96 of 2017 is accordingly dismissed.

15. In view of dismissal of the appeal nothing remains to be decided in the application for stay being CAN 824 of 2017 and the same is accordingly dismissed.

16. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

