

Ct. 08
Item No.06
21.12.2023
(**Suvendu**)

**MAT 266 of 2020
With
CAN 1 of 2020 (CAN 2750 of 2020)**

**Md. Hifzur Rahman
Vs.
State of West Bengal & Ors.**

Mr. Ekramul Bari
Ms. Tanuja Basak

..... for the appellant

Mr. Supriyo Chattopadhy, Ld. AGP,
Ms. Iti Dutta

....for the State

1. The appellant is aggrieved by the order dated 21st January, 2020 in a writ petition in which the petitioner has claimed higher scale of pay on enhancement of qualification.
2. After hearing the parties, it appears that it needs to be decided by the competent authority as to whether on the date when the appellant had acquired the higher qualification there was any need of a teacher with such higher qualification in

the school in relation to the relevant subject.

3. Enhancement of qualification is likely to benefit the school and the students. In the event such higher qualification is acquired in the relevant subject with the recommendation of the managing committee, ordinarily the same should be considered favourably keeping in mind the benefit of the school and the students. However, it is to be looked into as to whether such higher qualification was acquired after the 2005 Act came into force.
4. Mr. Bari, learned senior counsel appearing on behalf of the appellant has submitted that the appellant has acquired the higher qualification in the year 2003-2004 and accordingly the Act of 2005 would not be applicable so far as the appellant is concerned. At the relevant point of time the school was a junior high school and it was only upgraded in the year 2009.
5. The concerned District Inspector of Schools is required to find out as to

whether acquiring of the higher qualification by the appellant was taken into consideration for upgradation as fulfillment of criteria and in that case the 2005 Act would not stand in the way.

6. The Commissioner of School Education is accordingly directed to reconsider the matter afresh in the light of the aforesaid observations after giving reasonable opportunity of hearing to the appellant and the school authorities.
7. The impugned order dated 21st January, 2020 passed by the learned Single Judge and the order dated 1st December, 2009 passed by the concerned District Inspector of Schools are set aside.
8. The appeal and the connected application are accordingly disposed of.
9. Urgent photostat certified copy of this order, if applied for be given to the parties on usual undertakings.

(Uday Kumar, J.)

(Soumen Sen, J.)

