

14. 02.01.2023
bd. Ct.15

W.P.A. 3260 of 2020

Mitali Bose & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Ekramul Bari

... for the petitioners.

Mr. Avishek Prasad

... for the State

Affidavit of service filed by the petitioners is taken on record.

The writ petition is taken up for consideration in presence of the learned advocates representing the petitioners and the State respondents.

Mr. Bari, learned advocate, representing the petitioners submits that petitioners are bona fide organising teachers in a Government aided high school in upgraded section (Classes IX and X).

It has been submitted that previously petitioners approached this Court and a coordinate Bench while disposing of the writ petition being WPA 5178 of 2006 (Sri Samit Ranjan Pandit & Ors. -vs- The State of West Bengal & Ors.) directed the concerned State respondents to take decision on grant of approval in favour of the petitioners within certain time and it was also clarified therein that absence of names of the petitioners in the relevant DLIT report will not be relevant consideration for grant of approval of appointment of petitioners being organising teachers. Mr. Bari has laid

emphasis on the contents of this order dated 18th May, 2016 passed by the coordinate Bench whereby the coordinate Bench directed the District Magistrate to hold an enquiry and submit a report. Such report came in favour of the petitioners. According to the petitioners based on this report which was filed before the Court at the time of hearing of the aforesaid writ petition necessary direction was given by the coordinate Bench directing the State respondents to take decision.

Subsequently, petitioners filed contempt application for alleged violation of the order passed by the coordinate Bench and the State respondents filed review application and both the applications were considered finally and the order was passed on 4th January, 2019 by the coordinate Bench wherein the coordinate Bench refused to entertain the contempt application of the petitioners.

Ultimately, the District Inspector of Schools (SE), Howrah, being the respondent no. 3 passed a detailed order whereby the claim of the petitioners for being considered for grant of approval of appointment being bona fide organising teachers was spurned. Such decision of the respondent no. 3 is the subject matter of challenge in the present writ petition.

The State respondents are represented by Mr. Prasad, learned advocate, who opposes the prayer made on behalf of the petitioners and has placed reliance on the judgment of the Hon'ble Division Bench dated 6th July, 2018 passed on an

intra Court appeal being **MAT 1626 of 2017 (The District Inspector of Schools (Secondary Education) Burdwan & Ors. -vs- Abdul Barik Shaikh & Ors.)**. According to the State respondents after the decision has been rendered by the Hon'ble Division Bench the claim of the petitioners for grant of approval of appointment being organising teachers cannot be acceded to.

This Court has heard the learned advocates representing the petitioners and the State respondents and perused the decision taken by the respondent no. 3 as contained in memo dated 8th June, 2017 which is under challenge in this writ petition. In consideration of the decision taken by the respondent no. 3 this Court does not find any anomaly in refusing the prayer of the petitioners to grant approval of appointment. In addition thereto reliance has also been placed on the judgment of **Abdul Barik Shaikh** (supra) wherein the Hon'ble Division Bench has succinctly held 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 the 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 the above conspectus as well as

decision of the Hon'ble Division Bench in the **Abdul Barik Shaikh** (supra) this Court does not find any merit in the writ petition, accordingly, the same 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.)