

21.09.2023
SL No.3
Court No.8
(gc)

**MAT 407 of 2022
CAN 1 of 2023**

**Shudha Gupta
Vs.
The State of West Bengal & Ors.**

Mr. Anjan Bhattacharya,
...for the Appellant.
Mr. Bhaskar Prasad Vaisya, A.G.P.,
Mr. Suman Dey,
...for the State.
Mr. Saptansu Basu, Sr. Adv.,
Mr. Debapriya Gupta,
...for the Respondent Nos.4 & 5.

1. The petitioner is working in the Balika Siksha Sadan since 2012. Her grievance was that the school authority is not forwarding her name for approval. The school concerned is a DA-getting school. Before the learned Single Judge it was contended on behalf of the school that a disciplinary proceeding is being contemplated against the petitioner and it would be initiated soon and that is why the steps for approval of her service could not be taken.
2. Although it was submitted that necessary permission has been sought from the D.I. for initiation of the disciplinary proceeding against the petitioner, however, we are not required to go into such question as, *prima facie*, it appears that the school is a private DA-getting school and the jurisdiction of the D.I. to go into such matter is

required to be gone into and may be decided by the Board before whom such request was made.

3. Mr. Bhaskar Prasad Vaisya, learned A.G.P. appearing for the State has submitted that relevant rules referred to in the impugned order may not be applicable to the institution.
4. Be that as it may, an approval for the post can only arise only when the name of the teacher is recommended. In absence of any such recommendation, no writ of mandamus can be issued upon the District Inspector of Schools (S.E.), Kolkata for approval or consideration of the case of the petitioner.
5. Whether the school will not initiate a disciplinary proceeding or not it is for the school to decide, and the observation of the learned Single Judge may not be taken as an approval for initiation of a disciplinary proceeding on the basis of the charges levelled against the writ petitioner.
6. With the aforesaid observation, the appeal and the application stand disposed of.
7. However, there shall be no order as to costs.
8. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Prasenjit Biswas, J.)

(Soumen Sen, J.)