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W.P.A. 8002 of 2019

Abdul Khaleque & Ors.
Vs.
State of West Bengal & Ors.

Mr. Sobhan Majumder
...for the petitioners

Mr. Pinaki Dhole
Mr. Pinaki Bhattacharyya
....for the State

The writ petition is presented, *inter alia*, challenging the decision of the District Inspector of Schools (SE), Malda being respondent no. 3 as contained in memo dated 3rd May, 2017. The school in question in respect of which petitioners have claimed to be organising teachers in upgraded section of classes IX & X was recognised as 4-class Jr. High School with effect from 1st January, 1973 and thereafter based on DLIT inspection report dated 19th March, 2008, the school was upgraded with effect from 1st May, 2009.

Petitioners have claimed that they have been working as organising staff of the said school in question with effect from 12th March, 1996. Therefore, on upgradation of the said school with effect from 1st May, 2009, they have claimed that they ought to have been approved as organising teachers.

The issue relating to grant of approval in favour of the petitioners being organising staff of the school in question has been considered in detail by the respondent

no. 3 pursuant to the order dated 5th July, 2016 passed by a coordinate Bench on writ petition being WPA 14298 of 2016. The respondent no. 3 has considered the District Level Inspection Team Report (for short DLIT) dated 24th February, 1998 and the last DLIT report dated 19th March, 2008. The respondent no. 3 has also considered the attendance register of staff of the said school in question in order to find out whether the petitioners were regularly attending the school at the time of last DLIT inspection based on which report was prepared on 19th March, 2008.

On perusal of the decision of the respondent no. 3 as contained in memo dated 3rd May, 2017 it appears that there was controversy with regard to the DLIT inspection report dated 24th February, 1998, which was produced before the coordinate Bench at the time of consideration of the previous writ petition, whether such report was prepared at all following the norms but it appears that the last DLIT report dated 19th March, 2008 does not contain the names of the petitioners as organising staff. As per norms the last report of DLIT should be reckoned in the matter of recognising presence of organising staff in school at the time of upgrading the school from 4-class Junior High to High School with effect from 1st May, 2009. It further appears that though petitioners have claimed to have joined the said school on 12th March, 1996, but it has been rightly pointed out by the respondent no. 3 that at that point of time there cannot be units of classes IX & X in

the school since the school was upgraded as X-class High School with effect from 1st May, 2009. Whereas at the time of upgradation of school with effect from 1st May, 2009 and just before such upgradation, there is nothing on record to show that petitioners were functioning as *bona fide* organising staff.

Therefore, this Court does not find any anomaly in the decision of the respondent no. 3 as contained in memo dated 3rd May, 2017.

In addition thereto, the right of organising staff to be approved on recognition/upgradation of the school has already been decided by the Hon'ble Division Bench on an intra Court appeal being **MAT 1626 of 2017 (The District Inspector of Schools (SE) Burdwan & Ors. Vs. Abdul Barik Shaikh & Ors.)** by delivering judgement dated 6th July, 2018.

Paragraph 19 of the said judgement runs infra:-

> **"19. 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 the decision of the Hon'ble Division Bench in Abdul Barik Shaikh & Ors. (supra) as well as on examining the decision of the respondent no. 3 as

contained in memo dated 3rd May, 2017, this Court does not find any merit in the writ petition.

The writ petition 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.)