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Ct-08

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MAT 673 of 2023

with
I.A No. CAN 1 of 2023

Gour Chandra De

Vs.

The State of West Bengal & Ors.

Mr. Amjad Ali, Sr. Adv
Mr. Dilip Kumar Samanta
Mr. Ashis Kumar Pal
... For the Appellant/Petitioner

Mr. Shuvro Prokash Lahiri
Ms. Tithi Mazumdar
Mr. Rajesh Naskar
... For the Respondent nos. 6 & 7

Mr. Supriyo Chattopadhyay
Ms. Iti Dutta
... For the State

Mr. Koyeli Bhattacharyya
... For the W.B.B.S.E

1. We have heard the learned counsel appearing for the parties.

2. In view of the fact that the claim of refund is inexplicably connected with the disciplinary proceeding where similar issues are involved and having regard to the fact that the writ petitioner has filed an exception to the report filed by the Commissioner of School Education against the writ petitioner/appellant, the liberty to proceed with the action against the petitioner would not be desirable as in the event it is ultimately contended and held that the said report of the Commissioner has got no basis and is not acceptable then the entire procedure as initiated

in terms of the order dated 20th December, 2023 same would become infructuous.

3. Mr. Shuvro Prokash Lahiri, learned counsel representing the respondent nos. 6 and 7 had tried to impress upon the Court that the charges against the petitioner are serious. We are not commenting on it. However, there should be a procedural fairness. Unless there is some observation indicating that the exception to the report is not acceptable, we feel that the direction for further action against the petitioner forming the subject matter of the disciplinary proceeding cannot be sustained.

4. In view of the fact that the writ petition is still pending, we request the learned Single Judge to revisit the issue on consideration of the exception to the report and pass suitable order. Till such time the disciplinary proceeding shall remain stayed.

5. In view of the aforesaid observation, the appeal being MAT 673 of 2023 stands disposed of.

6. In view of disposal of the appeal nothing remains to be decided in the application for stay being CAN 1 of 2023 and the same is accordingly disposed of.

9. However, there shall be no order as to costs.

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

(Partha Sarathi Sen, J.)

(Soumen Sen, J.)

