

MAT 796 of 2019

**Md. Iquebal Ahamed Shah
Vs.
The State of West Bengal & Ors.**

Mr. Ekramul Bari
Mr. K.N. Nabi

... For the Appellant

Mr. Supriyo Chattopadhyay
Mrs. Iti Datta
Mrs. Tapati Samanta

...For the State

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

2. It is clear that the order of the District Inspector of Schools (S.E), South 24 Parganas was contrary to the law laid down in ***Md. Adeel Uz Zaman Vs. State of West Bengal & Ors, reported in 2021 SCC Online Cal 293*** in which it has been clearly stated that a candidate, who was pursuing his/her higher studies at the time of his/her appointment, is not required to seek prior permission for completion of his/her course. We have discussed in details in paragraphs 5 and 8 of the said judgment ***Md. Adeel Uz Zaman (supra)***.

3. Ms. Tapati Samanta, learned counsel appearing for the State, submits that the decision of the managing committee with regard to grant of prior permission of the appellant was not

forwarded to the D.I. However, a candidate pursuing higher studies at the time of his appointment requiring prior permission is considered in ***Md. Adeel Uz Zaman (supra)***. The said judgment is accepted by the State.

4. In view thereof, the order passed by the District Inspector of Schools (S.E), South 24 Parganas and the judgment of the learned Single Judge are set aside.

5. Consequent upon setting aside the order of the D.I, the District Inspector of Schools (S.E), South 24 Parganas, being the respondent no. 3, shall revise the pay scale of the appellant from the date following the last day of post graduate examination within six weeks from date.

6. On such consideration, the appeal succeeds.

7. The appeal being MAT 796 of 2019 is accordingly disposed of.

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

(Uday Kumar, J.)

(Soumen Sen, J.)

