

32 10.10.2023

Ct-08

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FMA 781 of 2023

with

I.A No. CAN 1 of 2023

Susanta Kumar Saha

Vs.

State of West Bengal & Ors.

Mr. Sudipata Dasgupta

Mr. Arka Nandi

Mr. Sondwip Sutradhar

Mr. Baibhav Roy

... For the Appellant

Mr. Pinaki Dhole

... For the State

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

2. It is an admitted position that the petitioner was not recruited following the Recruitment Rules prevailing at the relevant point of time and the post where the petitioner was recruited, was not a sanctioned post. The persons who have been recruited on the basis of the process of recruitment prevalent at the material point of time, cannot be equated with the petitioner. Admittedly, the writ petitioner did not participate on the basis of an advertisement published for recruitment of non-teaching staff in the school. Learned Single Judge declined to grant relief to the petitioner on the ground that the appointment of the petitioner in the post of Clerk in the school was made *de hors* the recruitment rules.

3. Under such circumstances, we are unable to grant any relief to the appellant. The appeal accordingly fails.

10. In view of the aforesaid, the appeal being FMA 781 of 2023 stands dismissed.

11. In view of the dismissal of the appeal, the application being CAN 1 of 2023 is accordingly dismissed.

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

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

(Uday Kumar, J.)

(Soumen Sen, J.)

