

36. 10.04.2023
bd. Ct.15

W.P.A. 14601 of 2018

Sri Pabitra Kumar Nayek

-vs-

The State of West Bengal & Ors.

Mr. Bharat Chandra Simai

... for the petitioner.

Mr. Pinaki Dhole

Mr. Avishek Prasad

... for the State

In the writ petition challenge has been thrown to the decision of the District Inspector of Schools (SE), Purba Medinipur, being the respondent no. 3 whereby the claim of the petitioner for grant of approval as organising assistant teacher has been spurned.

The learned advocate for the petitioner submits that the Headmaster of Uttar Daudpur, Vidyapith, District- Purba Medinipur (hereinafter referred to as the "said school") by issuing certificate dated 23rd July, 2004 stated that the petitioner worked in the school as assistant teacher for the period from 16th August, 1997 to 30th August, 1999. Placing reliance on this certificate dated 23rd July, 2004 petitioner has claimed grant of approval of appointment being an organising teacher.

The prayer of the petitioner has been opposed by the learned advocate representing the State respondents and has defended the decision of the respondent no. 3 as contained in memo dated 7th June, 2017 on the score that petitioner left the

school on 23rd July, 2003 and the school was recognised in the year 2010. Therefore at the time of recognition of the school petitioner was not serving as an organising assistant teacher of the said school.

Having considered the submissions made on behalf of the respective parties and on perusal of the relevant records including decision of the respondent no. 3 as contained in memo dated 7th June, 2017 it appears that the petitioner worked in the said school till 22nd July, 2003 and thereafter left the school. The school was recognised in the year 2010; therefore it transpires that at the time of recognition of the school petitioner was not working as an organising assistant teacher.

In addition thereto reliance is also placed on the judgment of the Hon'ble Division Bench dated 6th July, 2018 passed in an intra-Court appeal being **MAT 1626 of 2017 (The District Inspector of Schools (SE), Burdwan & Ors.-vs- Abdul Barik Shaikh & Ors)**, Paragraph 19 of the said judgment 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.”

The Hon’ble Division Bench in **Abdul Barik Shaikh** (supra) unequivocally decided that the organising teacher does not have right to claim approval of appointment on grant of recognition of the school in consideration of the judgment delivered by this Court prior to decision has been taken by the Hon’ble Division Bench in **Abdul Barik Shaikh** (supra).

Another fact does not escape notice of this Court that the petitioner was appointed as an approved assistant teacher of a primary school with effect from 15th December, 2012 and till date he is working as an approved assistant teacher of primary school. It is recorded in the order of the respondent no. 3 dated 7th June, 2017.

In above conspectus this Court finds no discrepancy in the decision contained in memo dated 7th June, 2017 and accordingly 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.)