

443. 31.01.2023
bd. Ct.15

W.P.A. 12318 of 2016

Amar Kumar Jana & Anr.

-vs-

The State of West Bengal & Ors.

Mr. S. Bandopadhyay

Mr. Kallol Kr. Maity

... for the petitioners.

The writ petition is presented, inter alia, challenging the order dated 21st June, 2016 issued by the District Inspector of Schools (SE), Purba Medinipur, whereby prayer of the petitioner to regularise them as organising teachers in Natshal High School, District- Purba Medinipur (hereinafter referred to as “said school”) was spurned. The said school was recognised as IV-Class junior high school with effect from 1st April, 1960 and subsequently it was upgraded as high school vide memo dated 1st January, 2000 with the permission to open Class IX from 1st May, 2000 and Class X from 1st May, 2001. Petitioner Nos. 1 and 2 have claimed to have been working as organising teaching staff in Classes IX and X and petitioner no. 3 has claimed to have been working as organising non-teaching staff (peon) in the said school.

This Court has made a query to the learned advocate representing the petitioners whether names of the petitioners featured in the inspection report prepared by District Level Inspection Team (DLIT). This Court does not get any satisfactory answer relating to inclusion of names of petitioners in the report of DLIT in order to show that

petitioners were considered as organising teaching and non-teaching staff of the said school.

In addition thereto the claim of the petitioners to get the benefit of regularisation being bona fide organising staff is no more res-integra in view of the judgement dated 6th July, 2018 delivered by the Hon'ble Division Bench in an intra Court Appeal being ***MAT 1626 of 2017 (The District Inspector of Schools (Secondary Education) Burdwan & Ors. -vs- Abdul Barik Shaikh & Ors.)*** Paragraph 19 of the said judgment of the Hon'ble Division Bench dated 6th July, 2018 is quoted below:

“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 learned advocate representing the petitioners has made an attempt to impress upon this Court on the case made out in the writ petition upon placing reliance on an order dated 13th June, 2022 passed in an appeal being FMA 1548 of 2004 (Ram Prasad Maji and Ors. -vs- The State of West

Bengal & Ors.). On perusal of said order dated 13th June, 2022 it appears that the issue which was considered by the Hon'ble Division Bench was not relating to regularisation of organising teacher rather the issue centered around grant of approval in favour of the teaching and non-teaching staff of three schools, which were decided not to be run due to lack of student strength and decision was taken by the authority to transfer those teaching and non-teaching staff to some other schools. Therefore the decision of the Hon'ble Division Bench in the order dated 13th June, 2022 is of no help.

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.)