

10.10.2023
SL No.8-11
Court No.8
(gc)

**MAT 1479 of 2023
CAN 1 of 2023**

**Susanta Panda @ Sushanta Kumar Panda
Vs.
Asha Srivastava & Ors.**

With

**MAT 1480 of 2023
CAN 1 of 2023**

**Mahadeb Saren
Vs.
Asha Srivastava & Ors.**

With

**MAT 1481 of 2023
CAN 1 of 2023
CAN 2 of 2023**

**Raj Kumar Shaw
Vs.
State of West Bengal & Ors.**

With

**MAT 1529 of 2023
CAN 1 of 2023**

**Aminul Ahsan, District Inspector
of Schools (P.E.), Kolkata
Vs.
Asha Srivastava & Ors.**

Mr. Kallol Basu,
Mr. Suman Banerjee,
...for the Appellant
in MAT 1479 of 2023 &
MAT 1480 of 2023.

Mr. Washef Ali Mondal,
...for the Appellant
in MAT 1481 of 2023.

Mr. Soumya Majumder,
Ms. S. Sultana,
...for the Appellant
in MAT 1529 of 2023.

Mr. Bhaskar Prasad Vaisya,A.G.P.,
 Mr. Ranjan Saha,
 ...for the State.

Mr. Sutirtha Das,
 Mr. Sagnik Roy Choudhury,
 ...for the Respondent No.1/
 Writ petitioner.

Mr. Subhamoy Bhattacharya,
 Mr. Shankar Mukherjee,
 Mr. Utsav Ganguly,
 ...for the Marwari Balika Vidyalaya.

Sk. Md. Galib,
 Ms. T. Mukherjee,
 ...for the Vigilance Commission.

1. By consent of the parties, the appeals and the connected applications are taken up together and disposed of by this common order.
2. The enquiry and investigation reports in compliance of the orders dated 6th December, 2022 and 23rd December, 2022 are produced. On perusal of the said two reports, we direct the learned Registrar General to keep the said two reports in safe custody.
3. The reason for non-payment of arrear salary and dearness allowance has triggered initiation of vigilance proceeding against the present appellants. Although enquiry ought to have been restricted to, the culpability of the appellants in not

discharging their statutory duties and obligations, an omnibus order was passed for an enquiry to be conducted by the Vigilance Commission to find out the assets of the appellants. The Vigilance Commission has filed two separate reports. The said two reports should be taken to its logical end by the authorities concerned. Now that certain facts have been revealed and disclosed in the vigilance report, it would be for the employer and the Vigilance Commission to take appropriate steps in accordance with law. However, we record that pursuant to our earlier directions, all lawful dues of the writ petitioners have been paid except provident fund and gratuity yet to be paid by the school authorities.

4. Since the issue of disproportionate assets is not the subject matter in the writ petitions, it would not be fair to proceed with that enquiry at this stage as there are authorities under the statute who have empowered and authorized to proceed with vigilance enquiry if there are reasons to believe that acquisition of assets is disproportionate to the known source of income. We direct the Vigilance

Commission and the other authorities to take appropriate steps and continue with the ongoing investigation and conclude it within a reasonable time and take appropriate steps on the basis of the reports filed by the Vigilance Commission. The said reports are not required to be disclosed at this stage as it is still at the stage of enquiry and charge-sheet has not been filed as yet. However, the investigation should be completed within three months from date.

5. It has been submitted on behalf of the State that FIRs have been lodged against three out of four appellants and disciplinary proceedings have been initiated against four appellants.
6. All the appellants seemed to have earned the wrath of the Court by reason of their lackadaisical approach in not attending to the grievance of the writ petitioners in time. The order of the learned Single Judge was well-intended and now that certain facts have come on record pursuant to the order passed by the learned Single Judge, it is no more open for the appellants to take a plea that the learned Single Judge has travelled beyond

the scope of the writ petition. However, having regard to the fact that the directions passed by the learned Single Judge are not in aid of adjudication of the reliefs claimed in the writ petition, we feel that no further Court monitored investigation is necessary in this matter as we are satisfied that the Vigilance Commission has taken satisfactory steps.

7. The learned Counsel for the writ petitioners submitted that provident fund and gratuity as calculated by the school authorities are not acceptable to the writ petitioners for which the writ petitioners may initiate separate proceeding.
8. The learned Counsel for the writ petitioners also submits that the entire grievance of the writ petitioners as canvassed in the writ petitions have been taken care of and all dues that are required to be paid under the relevant rules have been paid and as such the writ petitions may also be disposed of by recording the same.
9. In view thereof, keeping the issue with regard to the provident fund and gratuity open, we dispose of all the appeals and the writ petitions.

10. We make it clear that any observation made by the learned Single Judge or by this Court shall not influence the pending disciplinary proceeding or the investigation.
11. Accordingly, the appeals and the connected applications are disposed of.
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.)