

Item-67. 12-10-2023

MAT 2044 of 2023
CAN 1 of 2023

sg Ct. 8

Debasish Paine, Teacher-in-Charge
Goaltore High School (S.E.)
Versus
Sabitri Mahata & Anr.

Mr. Kallol Basu, Adv.
Mr. Soumyajit Ghosal, Adv.
...for the appellant
Mr. Rudra Nil Dey, Adv.
Mr. Lalratan Mondal, Adv.
Mr. Dilipn Kmar Sadhu, Adv.
...for the respondent no.1

1. Affidavit of service filed in Court today is taken on record.
2. The appeal is arising out of an order dated 5th October, 2023 by which the District Inspector of Schools has been directed to approve the appointment of the petitioner immediately and the matter has been fixed on 16th October, 2023 under the heading "To Be Mentioned".
3. It appears that contemnor no.2, claiming to be a teacher-in-charge of the school, raised certain issues with regard to the selection process. Admittedly, the school was all along a party in the various writ petitions filed by the petitioner and the private respondent. The present appellant had the liberty to raise such issue in the pending proceedings which he has not raised.
4. Now, it is contended that the order by which implementation has been sought for was a product of fraud. The petitioner has not approached either the learned Single Judge or Hon'ble Division Bench for recalling of the order. No review application was admittedly filed. The matter is pending since 2013 and was set at rest in March 2023. The Hon'ble

Division Bench affirmed the judgment of the Learned Single Judge in June 2023 and the Special Leave Petition was also withdrawn in July 2023.

5. In view of the aforesaid fact, we feel that the learned Single Judge was justified in not entertaining any plea for not implementing the order. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge. The appeal and the connected application are dismissed.
6. The learned Counsel for the petitioner has submitted that the leave may be given to the petitioner to apply for review and/or recalling of the order passed by the Hon'ble Division Bench.
7. We do not wish to make any observation in this regard. It was for the appellant to decide and take appropriate steps. However, we make it clear that we are not interfering with the order passed by the learned Single Judge.

(Uday Kumar, J.)

(Soumen Sen, J.)