

20. 30.01.2023
bd. Ct.15

W.P.A. 23979 of 2012

Goutam Mahato

-vs-

The State of West Bengal & Ors.

Mr. Prahlad Chandra Ghosh
... for the petitioner.

Ms. Chaitali Bhattacharya
Mr. Manas Kumar Sadhu
... for the State.

The writ petition is presented, inter alia, claiming approval of appointment/regularisation of service as clerk of Pandit Raghunath Murmu Vidyapith (hereinafter referred to as "said school") on the strength of petitioner's appointment letter dated 29th August, 2005 whereby he was appointed as organising clerk.

Mr. Ghosh, learned advocate, representing the petitioner submits that the school was provisionally recognised as X-class high school as a special case with effect from 1st May, 2008 vide memo dated 18th September, 2008 issued by the Secretary of the West Bengal Board of Secondary Education. In view of grant of recognition in favour of the said school right of the petitioner accrues to be regularised as clerk of the said school.

Ms. Bhattacharya, learned senior Government advocate appears on behalf of the State respondents and has opposed the prayer of the petitioner for regularisation being an organising clerk in view of law laid down by the Hon'ble

Division Bench as contained in the judgment dated 6th July, 2018 passed on an intra Court appeal being ***MAT 1626 of 2017, The District Inspector of Schools (Secondary Education) Burdwan & Ors. –vs- Abdul Barik Shaikh & Ors.***

According to the submission made on behalf of the State respondents after the said decision the issue is no more res-integra and petitioner has no right to be regularised on the post of clerk in the said school.

This Court has heard the learned advocates representing the petitioner as well as the State respondents.

Petitioner has claimed for regularisation of his service in the post of clerk since he was appointed as an organising clerk vide appointment letter dated 29th August, 2005. The said school was recognised as X-class high school vide memo dated 18th September, 2008 issued by the Secretary of the West Bengal Board of Secondary Education.

While considering the claim of the petitioner for regularisation being bona fide organising clerk this Court is required to consider the decision of the Hon'ble Division Bench in ***Abdul Barik Shaikh*** (supra). Paragraph 19 of the said judgment 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.”

This Court has also made an attempt to ascertain whether the name of the petitioner featured in District Level Inspection Team (DLIT) report.

Ms. Bhattacharya, learned advocate, for the State respondents submits that though DLIT inspection was conducted on 29th March, 2009 but such report does not contain name of the petitioner as an organising clerk of the said school. The submission made on behalf of the State respondents regarding date of holding DLIT inspection on 29th March, 2009 has been controverted by the learned advocate for the petitioner on the score that the said school was recognised as high school with effect from 1st May, 2008 and how subsequently inspection was conducted by the District Level Inspection Team. This Court has made a query to the learned advocate for the petitioner whether prior to recognising the said school petitioner’s name featured in any inspection report prepared based on inspection made by the District Level Inspection Team; this Court does not get any satisfactory reply.

In view of the law laid down by the Hon'ble Division Bench in ***Abdul Barik Shaikh*** (supra) and taking into consideration the fact that name of the petitioner did not feature in DLIT report this Court does not find any substance in the case made out in the writ petition claiming regularisation as clerk of the said school being organising clerk.

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.)