

Court No. 8

MAT 2352 of 2023

07.12.2023

(AD 51)

(S. Banerjee)

Suvendu Hatua
Vs.
Soma Roy & Ors.

with
CAN 1 of 2023
CAN 2 of 2023

Mr. Biswaroop Bhattacharya
Mr. Srijib Chakraborty
Mr. Subhrangsu Panda
Ms. Ina Bhattacharya
Ms. Mithu Singha Mahapatra
Mr. Sumitava Chakraborty
Ms. Haritri Roy
Mr. Abhishek Mukherjee

... for the appellant

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate
Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Payel Shome

... for the respondent no. 1/writ petitioner

Mr. Arka Kumar Nag

... for the State

Ms. Koyeli Bhattacharya

... for the WBBSE

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey

... for the WBCSSC

We have heard the learned counsel for the parties.

Re: CAN 2 of 2023

This is an application for leave to appeal.

Since the appellant is like to be affected by the impugned order leave to file the appeal being CAN 2 of 2023 is, hereby, allowed.

Re: MAT 2352 of 2023

This appeal has been filed against the order dated 1st December, 2023 by one Suvendu Hatua against whom certain adverse remarks have been made in the order dated 1st December, 2023.

Mr. Biswaroop Bhattacharya, learned counsel appearing on behalf of the appellant Suvendu Hatua, submits that on the basis of this order FIR has been lodged and he is apprehending arrest.

Mr. Bhattacharya has further submitted that Suvendu Hatua has been punished without being heard.

Learned counsel for the State submits that a Three-member Committee was constituted to review the appointments of teachers from 2016 onwards and in a report the Committee was of the view that the appointment of two persons named in the order, namely, Jasmine Khatun and Suvendu Hatua, appear to be doubtful. However, no conclusive opinion was given by the Committee. The learned Counsel has submitted that on the basis of the materials available with the state authorities the learned Single Judge was invited to pass such an order.

Learned Single Judge in the order impugned has merely referred to the doubts expressed by the Three-member Committee and directed the District Inspector of Schools to lodge similar FIR as was done in respect of others regarding the said appointment also.

We are unable to accept submission on behalf of the appellant as the investigating authority is required to investigate into the matter and the opinion of the Three-member Committee is not conclusive but is relevant consideration to be taken in lodging the FIR. It was only an opinion of the Committee based on certain information gathered from record. It is for the investigating agency to decide if an FIR is required to be lodged against Mr. Hatua.

We are of the view that the order impugned should not form the basis of the FIR against Suvendu Hatua and it should be on the basis of the materials gathered by the investigating authority during investigation. It is for the investigating authority to take up follow up steps in course of investigation.

In the event the SIT during investigation finds complicity of this person or if there are sufficient materials indicating the involvement of Suvendu Hatua in the matter of securing appointment, SIT shall proceed in accordance with law. We reiterate that the inclusion of the name of Suvendu Hatua in the FIR should not be on the basis of the order passed by the

learned Single Judge and it is to be an independent decision of the investigating agency. The lodging of FIR shall be revisited if it is solely based on the impugned order. The report on which the State has relied upon, shall also be taken into consideration in deciding whether FIR should be lodged against the applicant/appellant.

The appeal along with the connected applications, are hereby disposed of in terms of the aforesaid order.

(Uday Kumar, J.)

(Soumen Sen, J.)