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13.01.2025
Ct. No. 18
adeb

W.P.A. 30491 of 2024

**Anukul Samanta
Vs.
The State of West Bengal & Ors.**

Mr. Chittapriya Ghosh
Mr. Kamal Mishra
Ms. Priyanka Saha
...for the petitioner

Mr. K.J. Yusuf
Mr. Parikshit Goswami
...for the State

Matter is heard in presence of the learned advocates representing the parties.

In the writ petition order of the District Inspector of Schools (SE) South 24 Parganas dated 12th March, 2020 is under challenge whereby prayer for approval of appointment of the petitioner as an organizing clerk of the school in question has been spurned. Learned advocate representing the petitioner submits that in terms of the order dated 6th February, 2013 passed on a writ petition being C.O. 18251 (W) of 1996 (Shyam Pada Das & Ors. Vs. State of West Bengal & Ors.), on recognition of school in question not being new set up school, petitioner is entitled to be approved as an organizing clerk of the said school. It is also submitted that in terms of the order dated 6th February, 2013 Secretary, West Bengal Board of Secondary Education has granted recognition to the

school in question not as new set up school which confers right upon the petitioner to be approved as an organizing clerk.

Concerned District Inspector of Schools has rejected the claim of the petitioner for appointment being an organizing non-teaching staff since petitioner was found to be appointed vide appointment letter dated 11th June, 2011 and petitioner joined the post on 20th June, 2011 without being recommended by the School Service Commission. According to the State-respondents after coming into force of the West Bengal School Service Commission Act with effect from 1st April, 1997 without recommendation of the Commission petitioner cannot be considered for granting approval of appointment taking note of the fact that petitioner joined the school on 20th June, 2011 which was found to be dehors the recruitment rules prevalent at the material point of time.

Apart from the reasoning which has been offered by the concerned District Inspector of Schools it is found that petitioner virtually is claiming to be regularized on grant of approval of appointment taking note of the fact that he worked as an organizing clerk in school in question. The right of an organizing teaching and non teaching staff to get regularized has been negated by the decision of the Hon'ble Division Bench passed on intra Court appeal being **MAT 1626 of 2017 (District Inspector of Schools (Secondary Education) Burdwan & Ors. Vs. Abdul Barik**

Shaikh & Ors.). Paragraph 19 of **Abdul Barik Shaikh**

(supra) is quoted below:-

“19. 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.”

In view of the ratio in **Abdul Barik Shaikh** (supra) as decided by the Hon’ble Division Bench the issue of regularization and approval of appointment of non teaching staff in an organizing school on the school being recognized, is no more *res integra*.

Hence, writ petition stands dismissed.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)