

H,
SLP(C)No. 227 OF 2000

ITEM No.29

Court No. 4

SECTION XVI
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.227/2000

(From the judgement and order dated 05/10/1999 in MAT 2076/99
of The HIGH COURT OF CALCUTTA)

ABU TAHER

Petitioner (s)

VERSUS

ABDUL WAHAB AND ORS.

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for permission to place addl. documents on record)

Date : 12/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr.M.N.Krishnamani,Sr.Adv.
Mr. Aftab Ali Khan,Adv.
Mr. Varinder Kumar,Adv.

For Respondent (s) Mr. Bijan Kumar Ghosh,Adv.
Mr. Tapas Ray,Sr.Adv.
Mr. Satish Vig,Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J.

.SP2

Leave granted.
The appeal is disposed of.

.SP1

(Y.P.Dhamija) (Suneet Bala Sharma)@@
AA
COURT MASTER COURT MASTER

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO...../2001@@
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE
(arising out of SLP(C) No. 227/2000)

Abu Taher ...Appellant

Vs.

Abdul Wahab & Ors. ...Respondents

O R D E R@@
EEEEEEEEEE

.....L.....I.....T.....T.....T.....T.....T.....T.....T....J
.SP2

Leave granted.

The impugned order of Division Bench of Calcutta High Court in MAT No. 2076/1999 is the subject matter of challenge in this appeal. On a Writ Petition being filed, the learned Single Judge disposed of the matter holding that for the appointment of a Teacher in Arabic, the candidate should possess B.A. with Arabic combination and not with B.A. Special Arabic. Appropriate direction was given to the District Inspector of Schools, Murshidabad to ignore the candidature of the present appellant, who was respondent No.6, since he had the qualification of B.A. with Special Arabic and not B.A. Arabic combination. Against the judgment of the learned Single Judge, the appellant approached the Division Bench. The Division Bench without considering the ground on which the appellant was held to be disqualified for being appointed went into the question as to whether his name had been sponsored by the Employment Exchange and then following an earlier decision of the said Court came to hold that since appellant's name had not been sponsored by the Employment

- 2 -

Exchange, he was ineligible for being considered for the post in question. It is this order of the Division Bench which is being assailed.

Mr. Krishnamani appearing for the appellant contended that the aforesaid conclusion of the Division Bench of Calcutta High Court is erroneous in view of the decisions of this Court in 1996 (6) SCC 216 and 1997 (9) SCC 527. We find sufficient force in the aforesaid contention and as such the name of appellant cannot be excluded from consideration merely because his name had not been sponsored by the Employment Exchange. In that view of the matter, the Division Bench of Calcutta High Court not having applied its mind to the merits, namely, whether B.A. with Special Arabic can be said to be the same as B.A. with Arabic combination on which reasoning the learned Single Judge allowed the Writ Petition, it would meet and proper to direct the Calcutta High Court to decide the case on merits. We, therefore, set aside the impugned judgment of the Calcutta High Court and remit the appeal to the Calcutta High Court for re-consideration on merits. The appeal is disposed of accordingly. The learned Chief Justice of Calcutta High Court is requested to place the matter for early disposal. Parties are at liberty to file any further documents in support of their case.

.....J.
(G.B. PATTANAİK)

New Delhi,
February 12, 2001

.....J.
(U.C. BANERJEE)