
(2013) 01 CAL CK 0039
In the Calcutta High Court
Case No : Writ Petition No. 26838 (W) of 2012

Bilbhadra Barman

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 04-01-2013

Acts Referred:

Citation : (2013) 2 CHN 70

Hon'ble Judges : Soumitra Pal, J

Bench : Single Bench

Advocate : Ayan Banerjee, Abhishek Sinha and Debasree Dhamali, for the Appellant; Soumitra Bandyopadhyay for the State and Debabrata Saha Roy for the respondent No. 5, for the Respondent

Final Decision : Dismissed

Judgement

Soumitra Pal, J.—Let affidavit of service affirmed on 4th January, 2013, filed today, be kept on record. In the writ petition, the petitioner has prayed for a direction upon the West Bengal Board of Secondary Education, the respondent No. 2 to consider his objection regarding the final voters' list of Singijani High School (H.S.), particularly with regard to the election to the Guardian Category which was held in the year 2012 and for a further direction for holding election afresh after rectification of the voters' list. The principal grievance of the petitioner, as evident from the representation dated 4th September, 2012 addressed to the Secretary of the Institution, is that under the law it is impermissible to enlist the names of both father and mother as voters. Mr. Ayan Banerjee, learned advocate for the petitioner, submits that as the term "Guardian" means "father or mother", the resolution adopted by the Board on 3rd December, 2009, cannot be accepted.

2. Mr. Debabrata Saha Roy, learned advocate for the Managing Committee of the said Institution and Mr. Soumitra Bandyopadhyay, learned advocate for the State relying on the resolution adopted by the Executive Committee of the Board on 3rd December, 2009, submit that in a given situation where the same parents

have two wards in the same Institution and the father signs the admission register as the guardian of one ward and the mother signs the admission register as the guardian in respect of another ward, both father and mother are eligible to be enlisted as voters as each of them signs separately against a particular ward.

3. Heard learned advocates for the parties. Perused the representation dated 4th September, 2012.

4. In order to appreciate the issue it is appropriate to refer to the definition of the term "guardian" as evident from the Management of Recognized Non-Government Institutions (Aided and Unaided) Rules, 1969, which is as under:

The term "guardian" means father or mother, or, in the absence of both by death or disappearance, on of the following relations in the order stated, namely grandfather, grandmother, brother, sister, paternal uncle and maternal uncle.

5. It is evident that the term "guardian" means "father or mother". However, the question is whether in the event there are two wards in the same Institution and the father signs the admission register as the guardian of one ward and the mother signs the admission register as the guardian in respect of the other ward, whether at the same time both father and mother can be enlisted as voters. In my view, in the event there are two wards, they have separate status. Now, looking at the definition of the term "guardian", either father or mother can be guardian. If there are two wards, either the father or the mother can sign the admission register as guardians. There is no rule prohibiting the father and the mother signing separately in the register for their two wards. Since two wards have independent status, if the father signs the admission register as guardian in respect of one ward and the mother signs the admission register as guardian in respect of the other ward, they are eligible to be enrolled separately in the final voters" list. Therefore, the resolution adopted by the Executive Committee of the Board on 3rd December, 2009, is just and proper. It is further to be noted that the representation dated 4th September, 2012 alleging anomalies in the voters" list does not refer to any specific instance of anomaly and thus vague. Therefore, the writ petition is dismissed. No order as to costs.