

(2009) 04 CAL CK 0047
In the Calcutta High Court
Case No : F.M.A. No. 1408 of 2008

Chandan Kumar Maity

APPELLANT

Vs

Chittaranjan Si and Others

RESPONDENT

Date of Decision : 07-04-2009

Acts Referred:

Citation : (2009) 04 CAL CK 0047

Hon'ble Judges : Prasenjit Mandal, J; Ashim Kumar Banerjee, J

Bench : Division Bench

Advocate : Jamini Kumar Banerjee and Biswajit Banerjee, for the Appellant; Amal Baran Chatterjee, Sourav Sen for Respondent No. 1, Seba Roy, Sabita Roy for Respondent Nos. 2, 3, 6 and Kallol Bose for Board, for the Respondent

Final Decision : Dismissed

Judgement

1. Despite service none appeared for the Board. Hence, we directed Mr. Kallol Bose to appear in the matter. Accordingly, Mr. Bose has appeared and made submission on behalf of the Board.

2. Haripur High School (Higher Secondary) in the district of Purba Medinipur had only one life member Sri Chittaranjan Si since 1995. Since he was the only life member he was automatically taken in the Managing Committee whenever it was constituted. In 2004 Asanka Bera became the second life member. When there were two life members, the nomination was made by alternate process. Problem arose in 2007 when the appellant Chandan Kumar Maity became the third life member. He was immediately taken in the next Managing Committee constituted in 2008. Chittaranjan approached the learned Single Judge with a grievance that Rule 6A of the Rules for Management of Recognized Non-Government Institutions (Aided and Unaided), 1969 was not properly followed in the matter of nomination of the life member in the Managing Committee. According to Chittaranjan, since Asanka was nominated in the earlier managing committee, it was this turn following Rule 6A of the said Rules and Chandan was to wait, so that the circle is

completed after completion of the tenure of Chittaranjan and Asanka. Rule 6A was interpreted by the learned Judge. The learned Judge in His Lordship's well reasoned judgment and order-dated July 11 2008 appearing at pages 57 to 63 of the paper book allowed the writ petition. His Lordship interpreted Rule 6A and found the logic advanced by Chittaranjan correct. Hence, this appeal by Chandan.

3. Mr. Jamini Kumar Banerjee, learned Senior Counsel appearing for the appellant contends that when Chittaranjan and Asanka served the Managing Committee, being a third member it was the turn of Chandan who was rightly nominated by the respondent No. 5. Mr. Banerjee also contends that on an identical issue another Division Bench asked the authority to consider the issue of nomination of life membership in the light of Rule 6A.

4. Opposing the appeal Mr. Amal Baran Chatterjee, learned Counsel appearing for the respondent Chittaranjan supports the decision of the learned Single Judge. Mr. Chatterjee contends that no interference is called for.

5. We have considered the rival contentions of the parties. We have carefully perused the judgment and order of the learned Single Judge. If we accept the version of Chandan, it would create disastrous situation as in every year any person to become a member of the Managing Committee would donate a sum of Rs. 20,000/-. Blocking the chance of the life members who were senior to him. This was not the intention of the framer of the rules. Rule 6A has been correctly interpreted by His Lordship. The rotation can only be possible when such circle is completed by the existing persons. Chittaranjan and Asanka were there. They were being rotated by their a ternate nomination. When Chandan joined them and the circle was widened, Chandan would have to wait till the earlier rotation is complete, meaning thereby when Asanka was representing the Managing Committee one more turn Chittaranjan would get before Chandan is given opportunity.

6. The appeal thus fails and is hereby dismissed. There would be no order as to costs.

7. Stay of operation of this judgment and order has been prayed for. The same is considered and rejected.

8. Urgent Xerox certified copy of this order, if applied for, be given to the parties on priority basis.