
(2018) 06 CAL CK 0189
In the Calcutta High Court
Case No : W.P.7941(W) of 2018

Kaberi Bhattacharya

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 21-06-2018

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2018) 06 CAL CK 0189

Hon'ble Judges : SHEKHAR B. SARAF, J

Bench : Single Bench

Advocate : Sujoy Chakraborty, Arijit Bakshi, Kamalesh Bhattacharya, Rezaul Hossain, Parvez Hossain, Saugata Bhattacharya, Pinaki Bhattacharya, Sukanta Ghosh

Final Decision : Disposed Of

Judgement

This is an application under Article 226 of the Constitution of India wherein the writ petitioner had applied to join in Teachersâ?? Training

Programme in Satyapriya Roy College of Education being respondent no.8 wherein this Court had granted leave to the petitioner to move the matter

unlisted and after hearing, this Court had directed the petitioner to serve copy of the writ petition on the respondent nos.7, 8 and 9. Subsequently, on

June 6, 2018 the matter came up once again wherein affidavit of service was filed by the petitioner showing that communication of the order dated

June 4, 2018 had been done by way of email and also by way of hand service. A report of the Registrar General was also submitted to this court

showing that service of the order dated June 4, 2018 had been done.

By the Order dated June 6, 2018, this Court had directed the respondent no.8 to allow the petitioner to join the Teachersâ?? Training Programme

without the resolution of the school and the other relevant documents. Counsel on behalf of the respondent no.8 submits that the same has been done.

However, the resolution and the other documents have not been submitted till date. It may be noted that the respondent no.6, i.e. the school authorities,

the respondent no.7, i.e. the Administration of the school and the respondent no.9, i.e. the Headmistress of the concerned school were directed to

hand over the relevant documents to the writ petitioner after having the documents countersigned by the District Inspector of Schools (S.E.), North

24-Parganas within a period of seven days from that date. Obviously, the same has still not been done.

Mr. Kamalesh Bhattacharya, learned Counsel appearing on behalf of the respondent no.9, the Headmistress who is appearing today as per direction

of this Court, submits that the order dated June 4, 2018 and June 6, 2018 have been obtained by the petitioner in a manner that would amount to abuse

of process of Court. He submits that there is no prayer in the writ petition seeking dispensation of Rule 26 of the Writ Rules. He further submits that

the service of the copy of the order dated June 4, 2018 was only made on the Headmistress on June 6, 2018 and accordingly, the Headmistress was

unable to appear in Court on that date.

He further submits that the direction passed by this Court directing the Inspector-in-Charge of Baguihati Police Station to ensure of personal

appearance of respondent no.9 on June 21, 2018 (today) was absolutely unnecessary and should not have been passed and the same should be

recalled. He also submits that the respondent no.9 is absolutely ready and willing to hand over the relevant resolution and also other documents that

are required by the petitioner to be submitted before the respondent no.8.

I have heard learned Counsel appearing for the parties and perused the materials on record placed before this Court. The submissions of Mr.

Kamalesh Bhattacharya, learned Counsel appearing on behalf of the respondent no.9 have some merits as it is not clear whether proper service has

been made by the petitioner on June 5, 2018. However, affidavit of service filed by the petitioner goes to show that service has been completed by

way of email. There seems to be a grey area here and the benefit of doubt in such a case should be given to the Headmistress.

Accordingly, the direction passed by this Court on June 6, 2018 with regard to

personal appearance and directing the Inspector-in-Charge of Baguihati police station to ensure her presence, passed by this Court, is recalled and this Court tenders its apology to the Headmistress. However, I find from the records that the Headmistress has not complied with the order dated June 6, 2018 inspite of the fact that the same was served on her on that date itself. She was required to hand over the documents having countersigned by the concerned District Inspector of Schools within a period of seven days which she has failed to do.

Keeping in mind the submissions of the Counsel on behalf of the writ petitioner and the Headmistress, I am inclined to direct the Headmistress to hand over the papers to the writ petitioner in accordance with law after getting the same countersigned by the concerned District Inspector of Schools.

Hence, nothing remains in this writ petition to be decided and the same is disposed of accordingly as per the directions given above. No order as to costs. Counsel on behalf of the writ petitioner is requested to be slightly more careful at the time of drafting of the pleadings and ensuring service of the writ petition especially when urgent matters are moved. Photostat plain copy of this order duly countersigned by the Assistant Registrar (Court) be handed over to the learned Counsel for the appearing parties on usual undertaking.