

(2018) 12 CAL CK 0044

In the Calcutta High Court

Case No : General Application No. 2744 Of 2018, Appeal From Decree No. 200 Of 2018, Writ Petition No. 82 Of 2017

Rabindra Bharati University & Ors

APPELLANT

Vs

Pinaki Ranjan Bharati & Ors

RESPONDENT

Date of Decision : 05-12-2018

Acts Referred:

Citation : (2018) 12 CAL CK 0044

Hon'ble Judges : Harish Tandon, J; Subhasis Dasgupta, J

Bench : Division Bench

Advocate : Arunangshu Chakraborty, Jyoti Prakash Khan, Tapan Kr. Mukherjee, Somnath Naskar, Anil Kr. Gupta

Judgement

It is really unfortunate that in the midst of hearing of the instant application, the learned Advocate appearing for the respondent no.1 left the Court.

Let the supplementary affidavit, filed in Court today, be kept with the record.

The petitioner concludes his argument on the application for stay. So the learned Advocates representing the State as well as University Grant Commission.

A preliminary point is taken in the instant appeal that the writ petition, filed by the respondent no.1, is not maintainable having hit by the principles of res judicata. Even apart, the support is lent to the order passed in a contempt proceeding originated from an order by which the petitioner's writ petition was disposed of without recognising his right in the Kabitirtha Institution affiliated with the Rabindra Bharati University. Though the Court found that the respondent no.1 have committed contempt, yet exonerated him from any punishment under the Contempt of Court Act after accepting his unconditional and unqualified apology.

It was submitted before the Court taking up the contempt application that the said respondent no.1 shall not use the expression 'Kabitirtha', nor shall claim

any right in respect thereof. The contempt application was thus disposed of with the expressed finding that the said respondent no.1 shall not use the word 'Kabitirtha' in any fashion, nor shall claim any right in respect thereof.

The said order appears to have attained finality, as the same has not been challenged before the higher forum. However, several other writ petitions claimed to have been filed at the behest of the writ petitioner as well as other parties. Yet the aforesaid order does not appear to have been diluted and/or its effect has not been erased.

We, therefore, find that a prima facie case is made out. Since the respondent no.1 is not present, we feel that he should be given an opportunity to contest the said appeal as well as the application for stay.

We, therefore, direct the respondent no.1 to file affidavit in opposition to the application for stay within four weeks from date. Reply thereto, if any, be filed within two weeks thereafter.

The application is made returnable after two weeks after the reopening of this Court following Christmas Vacation.

There shall be stay of operation of the impugned order till four weeks after the Christmas Vacation or until further order whichever is earlier.