

(2014) 01 CAL CK 0020

In the Calcutta High Court

Case No : W.P. Nos. 21057 (W) of 2013 and 1052 (W) of 2014

Rabindranath Tapadar and Others

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 27-01-2014

Acts Referred:

Citation : (2014) 4 CHN 72

Hon'ble Judges : Arun Mishra, C.J; Joymalya Bagchi, J

Bench : Division Bench

Judgement

1. Since both the writ petitions relate to the same cause of action and has prayed for similar reliefs they are heard analogously and are being disposed of by a common order. In these public interest petitions the petitioners have assailed a lease agreement granted by the respondent authority in favour of the private respondent No. 6, namely, Priyadarshini Public School. It has been pleaded in the petitions that the said school caters to the educational needs of the children of the employees of Kulti work of the then ISRO. It has also been pleaded that on 19.11.1992 a resolution was taken by SAIL to execute a lease in favour of the respondent/school and a lease agreement was executed in 1992. It has been alleged that such agreement is an unregistered instrument and that a much larger area had been leased out to the school. It has been further stated that the said school under the control of the respondent No. 2, being the Secretary of the managing committee of the school and that the said respondent No. 2 is indulging in various illegal acts causing loss to public exchequer. It is further alleged that the brother of respondent No. 2 was illegally appointed by the respondent SAIL authorities.

2. Mr. Sundarananda Pal, learned senior counsel appearing for the respondent SAIL authorities submitted that the deed of lease was executed in 1992 and the respondent No. 6 school authority has been functioning on the land since then. He further submitted that the challenge is a belated one and completely malafide in nature. Learned counsel further denied that any appointment contrary to law

was made. He further submitted that any dispute relating to appointment is not amenable to challenge in a public interest litigation.

3. Mr. Pranab Datta, learned counsel appearing for the respondent school denied and disputed the allegation that it was running in an illegal manner or that there was any misuse of official position and/or misappropriation of public money.

4. Having considered the rival submissions of the parties, we find that the respondent/school has been running on the land in question since 1992 pursuant to a lease agreement. It is too late in the day to challenge the action of the respondent authorities in letting out public land to the respondent school. Moreover, the school is catering to the educational needs of the students of the locality. Allegations of misappropriation of money appear to be vague and non-specific in nature.

5. It is settled law that no challenge in the matter of public appointment can be made in public interest jurisdiction when no challenge has been thrown to such appointment by aggrieved persons.

6. At this juncture, learned counsel appearing for the petitioners in W.P. No. 1052 (W) of 2014 seeks leave to withdraw the writ petition.

7. Accordingly, W.P. No. 1025 (W) of 2014 is dismissed as withdrawn. However, for the aforesaid reasons, W.P. No. 21057 (W) of 2013 is dismissed on merits.