
(2019) 09 CAL CK 0293
In the Calcutta High Court
Case No : Writ Petitions (WP) No. 17844 (W) Of 2019

Sujit Ray	Vs	APPELLANT
State Of West Bengal & Ors		RESPONDENT

Date of Decision : 24-09-2019

Acts Referred:

Citation : (2019) 09 CAL CK 0293

Hon'ble Judges : Moushumi Bhattacharya, J

Bench : Single Bench

Advocate : Bikash Ranjan Bhattacharya, Prahlad Chandra Ghosh, Subir Hazra, Sukumar Sarkar, Supriyo Chattopadhyay, Iti Dutta, Saibal Acharyya, Pradip Paul, Koyeli Bhattacharya

Final Decision : Dismissed

Judgement

Moushumi Bhattacharya, J

The petitioner claims to be the Ex-President of the Kulti High School and prays for a direction on the West Bengal Board of Secondary Education to consider and decide on the dispute raised by the petitioner with regard to the Election Programme of the guardian representatives under the Central Advisory Committee, Kulti Schools.

Learned Counsel appearing for the writ petitioner submits that the life of the Central Advisory Committee of Kulti Schools including the Kulti High School, where the Election Programme is scheduled to be held on 29th September, 2019, expired on 4th August, 2019. Counsel submits that by reason of the Central Advisory Committee of the concerned school having become defunct, no election of the guardian representatives can be held on 29th September, 2019. Counsel relies on Regulation 34 of the Procedure for holding Election, West Bengal Board of Secondary Education, which provides that in case of any doubt or dispute in the matter of holding election at any stage, the matter shall be referred to the Board whose decision shall be final. Counsel places a letter dated 6th September,

2019 written by the petitioner to the President of the West Bengal Board of Secondary Education (the Board) which has stated the relevant facts and which has requested for a reconstitution of the Managing Committee as well as for appointment of an Administrator in the school. Counsel also submits that the Board may be directed to take a decision in the matter.

Learned Counsel for the State places an order passed by a learned Single Judge on 17th July, 2017 in W.P.18410(W) of 2017 (Central Advisory Committee of Kulti High Schools Vs. State of West Bengal) by which the Principal Secretary of the School Education Department was directed to take an informed decision in the matter. An order passed by the Joint Secretary to the Government of West Bengal was under challenge before the Court in that matter. The said order had converted Kulti High School into a government sponsored school. Pursuant to the aforesaid order, the Principal Secretary, School Education Department had passed a reasoned order which records that the Kulti High School is being run under the management of Central Advisory Committee formed by the Steel Authority of India. It has also been recorded that a memo bearing No.920 dated 1st June, 2017 was being withdrawn with immediate effect subject to the result of the appeal. Counsel submits that the effect of the withdrawal of the concerned memo is that the nomination of the President, who is the writ petitioner in this proceeding, was withdrawn and that the school continued to be run by the Central Advisory Committee in terms of a notification dated 20th March, 2013 issued by the Government. The Central Advisory Committee was formed by the Steel Authority of India. Counsel places the order passed by the Division Bench challenging the order dated 17th July, 2017 by which the order of the Single Bench was confirmed. It may be mentioned that the challenge was filed by the present writ petitioner and by an order dated 25th February, 2019, the appeal court made the following observations:

"The present appellants who were the respondent nos.7 and 8 to the writ petition have filed the present appeal. It may be mentioned that the appellant no.2 who is the Headmaster of the concerned school is a member of the Central Advisory Committee which, pursuant to the liberty granted by the learned Single Judge had made a representation and the order has already been acted upon. So far the appellant no.1 is concerned, his identity is not very clear nor could we get it from Mr. Mondal, the learned advocate for the appellant. Therefore, at his instance the present appeal is plainly not maintainable.

The challenge to the appeal is entirely frivolous and it is not understood how the appellants were affected by the order impugned.

We find no impropriety in the order impugned. There is nothing to interfere in this order, more so, when the liberty granted by the learned Single Judge had already been implemented."

Counsel submits that since the appeal court specifically held that the appellant/writ petitioner in the present proceeding is of questionable identity, the writ

petitioner has no locus to file the present writ petition. It is also submitted that being the Ex-President of the Managing Committee of the concerned school, the writ petitioner cannot challenge an election process which is due to be held shortly.

Learned Counsel for the Board supports the contentions made on behalf of the State and submits that the writ petitioner has no locus standi to refer any matter to the Board for a decision since the identity of the writ petitioner has been held to be unascertained by the Division Bench of this Court. She submits that an application for extension of the life of the Central Administrative Committee has been made by the concerned school sometime in June, 2019, before the life of the Committee expired and that such application is pending consideration. This stand is reiterated by learned Counsel appearing for respondent no.7, being the Executive Officer of the Central Advisory Committee of the concerned school.

Having heard learned Counsel for the parties, this Court cannot disregard the views of the Division Bench of this Court which clearly held that the identity of the petitioner, who was the appellant before the Division Bench to be ambiguous and accordingly found the appeal to be frivolous. The Division bench also noted that it was not clear as to how the petitioner was affected by the order of the learned Single Judge.

The order passed by the Principal Secretary is relevant in that the school was found to remain under the management of a Central Advisory Committee of the Steel Authority of India and ceased to be a government sponsored school. Further, admittedly an application has been made by the school for extending the life of the Central Advisory Committee and is pending before the Board. It is also to be noted that the election for a teacher's representatives has already been held on 21st/22nd September, 2019 and only the guardian representatives election remains to be held on 29th September, 2019. It is not clear to this Court as to how the petitioner, being the erstwhile President of the Managing Committee, would be affected if the election for guardian representatives is held as per the programme published by the Committee of the concerned school. The dispute raised will, in any event, be resolved by the Board after a decision is taken on the life of the existing committee.

By reason of the above discussion, this Court finds no merit in the writ petition and no ground for directing the Board to consider the representation made by the writ petitioner dated 6th September, 2019 when the petitioner has no locus to make such representation. The Board is, however, directed to expeditiously dispose of the application made by the school which is admittedly pending since June, 2019.

W.P. 17844(W) of 2019 is accordingly dismissed without any order as to costs.