
(2013) 07 CAL CK 0108
In the Calcutta High Court
Case No : Writ Petition No. 24142 (W) of 2012

Uma Rani Ghorai

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 05-07-2013

Acts Referred:

Citation : (2014) 1 WBLR 267

Hon'ble Judges : Debasish Kar Gupta, J

Bench : Single Bench

Advocate : Himadri Barua, for the Appellant; Asok De, Rabilal Moitra, S.B. Mukherjee and A.K. Samanta for Respondent Nos. 6 and 7 and Gausul Alam for State, for the Respondent

Judgement

Debasish Kar Gupta, J.—This writ application is filed by the petitioner assailing an order passed by the respondent No. 4 under his memo No. 519/GS dated October 12, 2012. By virtue of the impugned order, the respondent No. 4 directed the Goura Sonamui Kunjabehari Adarsha Sikshayatan, District Paschim Medinipur to include the name of Dr. Rupam Dinda in the managing committee of the above school under "Life Member's Category". According to the petitioner, he is one of the donor and eligible for inclusion in the managing committee of the above school under "Life Member's category". But the name of the aforesaid Dr. Rupam Dinda was recommended by the respondent No. 4 without adhering to the provisions of law. It is submitted by Mr. Himadri Barua, learned Advocate appearing on behalf of the petitioner that the Director of School Education, (now the Commissioner of Education, West Bengal) was the authority to nominate the name of "Life Member". According to him, the school under reference submitted a representation before the West Bengal Board of Secondary Education for clarification in this regard. According to Mr. Barua, it was a dispute raised before the Court and the name of the "Life Member" should not have been recommended before resolving the above disputes. It is also the case of the petitioner that the name of the "Life Member" was recommended by virtue of the impugned order without giving any opportunity of hearing to the petitioner and

vitiating the rules of principles of natural justice.

2. On the other hand, it is submitted by Mr. Asok De, learned Senior Advocate appearing on behalf of the respondent Nos. 6 & 7 that in accordance with the proviso to Clause (1) of sub-rule (1) of Rule 6A of the Management of Recognized Non-Government Educational Institutions (Aided and Unaided) Rules, 1969 (hereinafter referred to as the Management Rules, 1969), the Director of School Education now re-designated as Commissioner of Education, West Bengal) was the competent authority to recommend the name of the member of the managing committee under "Life Member's Category" relying upon the Departmental Circular No. 655-SE (Law) SL 55-1047/071 dated May 20, 2011 that the above power of the Director of School Education was delegated to the respondent No. 4.

3. The above submissions made on behalf of the respondent Nos. 6 & 7 are supported by the learned Advocate appearing on behalf of the State respondents.

4. I have heard the learned Counsel appearing for the respective parties at length and I have considered the fact and circumstances of this case. In order to examining the allegation with regard to jurisdiction of the respondent No. 4 in passing the impugned order, the provisions of Clause (1) sub-rule (1) of Rule 6A of the Management Rules, 1969 are quoted below :--

6A. Manner of formation of Committee-(1) Persons whose names are entered in the register of eligible persons as founders shall be the member of the Committee, one at a time by rotation according to the procedure to be determined by the Director or by an officer authorized by him in this behalf:

If a persons has paid not less than Rs. 20,000/- or its equivalent to the Institution, he shall be a Life Member of the Committee during his life-time or shall have the right of nominating a person as a member on the Committee. But a person who has donated Rs. 10,000/- or more in cash or kind Immediately preceding the date of Issue of Notification No. 855-Edn (S), dated the 23rd December, 1980, shall, however, continue as a life-member of the Committee :

Provided that when there are more than one Life-Member and the Life-Member selected by rotation by the Director or by an officer authorised by him In this behalf, declines to serve on the Committee, the Director or the officer authorised by him In this behalf may select any other Life-Member from the panel, who Is willing to serve on the Committee.

5. In view of the above provisions, the Director of School Education, West Bengal (now re-designated as Commissioner of Education, West Bengal) was the authority to nominate the name of the member under "Life Member's Category" in the managing committee of the school by rotation.

6. After perusing the Departmental Circular dated May 20, 2011, I find that there was a delegation of power in favour of the respondent No. 4 by the Director of School Education to exercise the aforesaid power. Therefore, I do not find any

illegality or impropriety in the impugned order.

7. With regard to the allegations of a pendency of a dispute before the West Bengal Board of Secondary Education, I do not find that anybody filed a dispute before the West Bengal Board of Secondary Education with regard to recommendation of the name of "Life Member" in the managing committee of the school under reference. Mere communication seeking clarification does not amount to raise of a dispute as alleged.

8. In view of the above, this writ application is dismissed. There wilt be, however, no order as to costs.