

05.10.2020
srm

W.P.A. No. 12897 of 2019

(Via Video Conference)

Sri Arun Kumar Mitra & Anr.

Vs.

State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee,
Mr. Akashdeep Mukherjee

...for the Petitioners.

Despite service none appears on behalf of the State-respondents. Affidavit of service is taken on record.

As none appears on behalf of the State-respondents, Ms. Chaitali Bhattacharya, learned Senior Government Advocate, is requested to accept the brief on behalf of the State-respondents. Her appointment may be regularised.

The petitioner No.1 claims to be a local guardian of a minor Ms. Deb Ishika Das, who is the petitioner No.2, represented by the petitioner No.1

It is the contention of the petitioners that the parents of the petitioner No.2 died. The mother of the petitioner No.2 predeceased the father. The father remarried. Thereafter, due to disputes in the house, the petitioner No.2 was left in the custody of the petitioner No.1. The father of the petitioner No.2 died on July 28, 2017. The petitioners now claim that the petitioner No.2

is entitled to 1/3 share of the death benefits. According to the petitioners, several representations have been made before the District Inspector of Schools (SE), Alipurduar for release of 1/3 share of gratuity provident fund as also the family pension etc being the death benefits. Those are on record.

It appears that although it is the contention of the petitioner No.1 that he is the guardian of the petitioner No.1, there is nothing on record to show that the petitioner No.1 has been legally appointed as guardian of the minor. However records reveal that the minor is in the care and custody of the petitioner No.1.

Under such circumstances, the writ petition is disposed of with a direction upon the District Inspector of Schools (SE), Alipurduar to consider the representations of the petitioner No.2. Upon hearing the petitioners, a reasoned order be passed with regard to the procedure by which 1/3 share of the retiral benefits including the family pension of the deceased father of the petitioner No.2 may be disbursed to her. The authority concerned will pass the order on the basis of the rules and regulations applicable in such cases. The decision shall be taken and communicated to the petitioners within a period of six weeks from the date of communication.

This Court has not gone into the merits of the claim and counterclaim of the parties. The authorities

concerned shall decide the matter in accordance with law and by applying the relevant rules and regulations and circulars prevailing in the field.

This writ petition is disposed of.

There will be however no order as to costs.

Urgent certified website copies of this order, if applied for, be delivered to the parties, upon compliance of all necessary formalities.

(Shampa Sarkar, J.)