

ADS/L. 4.
November 19, 2020.
MNS.

W. P. A 7355 of 2020
With
IA NO: CAN 1 of 2020
(Via video conference)

Amrita Chatterjee
Vs.
The State of West Bengal and others

Mr. Uday Sankar Chattopadhyay,
Mr. Suman Sankar Chatterjee,
Mr. Santanu Majhi,
Mr. Pronoy Basak

... for the petitioner.

Mr. Akash Dutta

...for the respondent no. 7.

Affidavit-of-service filed in Court today is
taken on record.

Despite service, none of the respondents,
except respondent no. 7, is represented in court
today.

The grievance of the petitioner is that her
ward (son), who was a student of the respondent
no. 2-school, is not being awarded a transfer
certificate, thereby creating hindrance to the
academic career of the said student. The student
has already taken admission in a different school
and his fees and other dues, it is submitted, in

respect of the respondent no. 2 have already been cleared.

On the question of maintainability of the writ petition against the respondent no. 2, which is a private institution, and not aided by the government, learned counsel for the petitioner cites the judgement reported at **(2012) 12 Supreme Court Cases 331 (Ramesh Ahluwalia Vs. State of Punjab)**, wherein it was held, *inter alia*, that even a purely private body, where the State had no control over its internal affairs, would be amenable to the jurisdiction of the High Court under Article 226 of the Constitution, for issuance of writ of mandamus. However, the private body had to perform public functions which are normally expected to be performed by the State authorities.

Although the present respondent no. 2 does not fall squarely within the purview of Article 12 of the Constitution of India, there can be no doubt that it discharges the function of imparting education, which is one of the cardinal duties imposed by the Constitution on the State (now a fundamental right as well).

Since there is no apparent reason why the transfer certificate is being withheld, this Court

deems it justified to invoke jurisdiction under Article 226 of the Constitution of India, in consonance with the ratio laid down in *Ramesh Ahluwalia (supra)*.

However, since there may be existing dispute pertaining to the clearance of all dues by the petitioner in respect of the respondent no. 2 till the date of application for transfer, it would not be wise to direct the respondent no. 2 outright to grant such transfer certificate, without looking into such aspect of the matter.

In the above factual premise, W.P.A. 7355 of 2020, along with IA NO: CAN 1 of 2020, is disposed of with a direction upon the respondent no. 2 to issue the transfer certificate, as prayed for by the petitioner for her son, subject to clearance of all dues to the respondent no.2 by the petitioner and compliance of all necessary formalities regarding the issuance of transfer certificate.

There will, however, be no order as to costs.

The parties are directed to act on the server copies of this order as and when uploaded in the official website of this Court. In any event, the petitioner is granted liberty to communicate

the gist of this order to the respondents even without waiting for such server copy to be uploaded and the respondents are directed to act upon the same.

(Sabyasachi Bhattacharyya, J.)