

13/01/2021
Item No.4(a)DL
AB/S DE

Through Video Conference

W.P.A. 7838 of 2018

Indranath Mondal & Others

-Vs-

The State of West Bengal & Ors.

Mr. Jayanta Kr. Das,
Mr. Gourav Das,
Ms. Madhumanti Das ...for the Petitioners.

Mr. Sirsanya Bandyopadhyay,
Mr. Arka Kr. Nag,
Ms. Sudeshna Das Majumdar ...for the State.

This Public Interest Litigation was filed in the year 2018 with the prayer that a direction be issued on the authorities for construction of a new school building in a particular locality in the district of Malda since the old school building from which the school was running had been washed away by flood in the year 2013.

In the course of the proceeding, the Commissioner of School Education has issued an order dated January 7, 2020 directing the Chairman of the Malda District Primary School Council to act as per the provision of Clause (ii) of Section 60 of the West Bengal Primary Education Act, 1973 in respect of merging the said school i.e. Par Bhaluka Primary School with the Bhaluka Bazar Primary School. Pursuant to such order, the Chairman, Malda District

Primary School Council issued an order dated January 7, 2020 withdrawing the recognition of Par Bhaluka Primary School and merging the said school with Bhaluka Bazar Primary School.

The petitioners are aggrieved by this merger. According to them, the school, with which the earlier school merged, is at such a distance that it will be very difficult for the concerned children to attend the school. Further, it is contended that the school, with which the earlier school merged, does not have sufficient infrastructure to accommodate the students.

We have considered the facts and circumstances of the case. We have heard learned Counsel for the petitioners and learned Junior Standing Counsel for the State.

The order of merger has been passed in terms of a statutory provision and it is in the nature of a subordinate legislation. If the petitioners are aggrieved with such merger order, they will have to challenge such order in the appropriate jurisdiction by way of an independent action. Such order cannot be made the subject matter of challenge in the present proceeding, the scope of which is limited.

Accordingly, we dispose of this writ petition without prejudice to any right that the petitioners may have to challenge the order of the Commissioner of

School Education and/or the order of the Chairman of the Malda District Primary School Council, both dated January 7, 2020, by way of an independent action before the appropriate forum and in accordance with law.

The writ petition stands disposed of.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Thottathil B. Radhakrishnan, C.J.)

(Arijit Banerjee, J.)