

17.09.2021
Item No. 19
Crt.No.11
b.r.

MAT 933 of 2021
with
IA No. CAN 1 of 2021

Sanchita De
-vs-
The West State Bengal & Ors.

(Via video conference)

Mr. Ekramul Bari
Mr. Syed Mansur Ali
Ms. Tanuja Basak
Sk. Imtiaj Uddin
..... for the appellant.

Mr. Swapan Kumar Dutta
Mr. Tapas Kumar Dey
..... for the State.

Ms. Koyeli Bhattacharyya
..... for the West Bengal Board of
Secondary Education.

Under challenge in this appeal is the order impugned of the Hon'ble Single Bench dated 31st August, 2021 in the writ petition. The writ petition was filed by the present appellant, being the Head Mistress of the school in issue, with the prayer to appoint an Administrator in lieu and in place of the Managing Committee whose term had expired in March 2021. The Hon'ble Single Bench had directed that the issue be decided upon exchange of affidavits.

Mr. Bari, learned Counsel appearing for the appellant/the writ petitioner, submits that the life of Managing Committee of the School in issue which admittedly expired in March, 2021 was extended in a

blanket fashion on the basis of a Memo of the Secondary Branch of the School Education Department dated the 11th September, 2019. It is further submitted that the general Memo dated 11th September, 2019 issued by the Joint Secretary, Secondary Branch, School Education Department, Government of West Bengal, relies on Rule 10 of the Management of Sponsored Institution (Secondary) Rules, 1972 (for short, the 1972 Rules).

Rule 10(*supra*) has been shown to this Court. Rule 10, *inter alia*, provides that the terms of the Managing Committees of all sponsored schools, including the present School in issue, shall be three years from the date of its first meeting, provided that such term may be extended by the State Government.

It is submitted by Mr. Bari that the blanket extension granted on the basis of Rule 10 (*supra*) is prejudicial to the administration of the School in issue in the writ petition and, there is a patent mismatch *within* the provisions of Rule 10 (*supra*) which permits extension of terms by the State Government of Managing Committees which may be indefinite or, till the next Managing Committee is formed whereas the provision for permitting the representatives of the guardians in the Managing Committee to hold Office is limited simultaneously for a period of one year only.

It is thus submitted that the entire exercise extending the term of the defunct Managing Committee of

the School in issue until further orders or, till the new Committee is formed, whichever is earlier, is arbitrary.

Arguing on behalf of the State-Respondents, Mr. Swapan Kumar Dutta, learned Senior Counsel with Mr. Tapas Kumar Dey, learned Advocate, points out that the *vires* of Rule 10 of the 1972 Rules have not been challenged in this writ petition. There is no infraction of jurisdiction by the Joint Secretary, School Education Department (*supra*) having acted in administrative capacity on the basis of the Notified Rules of 1972.

Ms. Koyeli Bhattacharyya, learned Counsel, appears for the respondents/the West Bengal Board of Secondary Education (for short WBBSE).

Having heard the parties and considering the materials placed, this Court is of the view that the grant of an interim order to appoint an Administrator to the School in issue would have resulted in placing the School in issue on a different footing as compared to obtain similarly circumstanced sponsored schools, without the Court having had the opportunity to examine the complete application of the Memo dated 11th September, 2019 read in the context of the 1972 Rules. Therefore, this Court is *ad idem* with the Hon'ble Single Bench that the matter be examined on affidavits.

However, at the same time, this Court is persuaded by the submission for the appellant that simply citing the Memo of 11th September, 2019 on the basis of the Notified

Rules of 1972 a blanket, unfettered extension to a Managing Committee which has become defunct by efflux of time requires to be judicially visited in the interests of proper administration.

Accordingly, this Court requests the Hon'ble Single Bench to expedite the hearing of the writ petition, subject to its convenience.

MAT 933 of 2021 along with **CAN 1 of 2021** stand thus **disposed of**.

In view of the discussion as above, affidavits are not necessary, neither are they invited. All other allegations are deemed to be denied and disputed.

Affidavit of Service filed in Court today be retained with the record.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Kesang Doma Bhutia, J.)

(Subrata Talukdar, J.)