

Ct. 05
Item No.41
30.11.2021
(suvendu)

WPA 15468 of 2021

[Via Video Conference]

**Raghunath Ayurved Mahavidyalay and Hospital & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Kamalesh Bhattacharya
Mr. S.K.Rath
.....for the petitioners

Mr. Uday Sankar Chattopadhyay
Mr. Shantanu Majhi
Mr. Pranay Basak
Ms. Trisha Rakshit
.....for the respondent nos. 4 & 5

Mr. Swapan Kumar Datta
Mr. J. Medhi
.....for the State

A point of maintainability has been taken by learned counsel appearing for the private respondents.

Learned counsel appearing for the petitioners relies on the representation made to the Minister-in-charge, Department of Health and Welfare, State of West Bengal dated 17th August, 2021 to submit that the present writ petition qualifies under the requirements of Article 226 of the Constitution of India.

Upon perusing the relevant averments and particularly the prayers in the writ petition,

this Court is of the view that the grievance of the writ petitioners is directed against the respondent nos. 4 and 5 who are the private respondents, namely the office bearers of Raghunath Ayurved Mahavidyalaya and Hospital. The petitioner no. 2 is the secretary of the petitioner no.1. The statements in the writ petition show that the petitioner no.2 seeks a restraint on the respondent nos. 4 and 5 on charges of connivance and other illegal activities. The allegation is that the said respondents are running the said College without any role of the Ayurveda Sevak Sangha which has been entrusted with the task of managing the petitioner no.1. The averments make it clear that the grievance relates to a parallel committee being set up by the respondent no. 4 and his supporters and the consequential prayer is hence to terminate the said committee by declaring the same to be void.

It is settled law that for a writ to be maintainable under Article 226 of the Constitution of India, not only must the respondent be an entity under Article 12 of the Constitution but that a mandamus can be prayed for only in relation to a judicially enforceable right. Infraction of an enforceable right must also correspond to a legal duty on the part of the State authority. The cause

of action must not be between two private entities involving questions of facts which can well be decided by a Civil Court under available statutory remedies.

The representation in this case, although addressed to the Minister-in-charge of the Department of Health and Welfare, Government of West Bengal, does not assist the petitioners to convert what is essentially a private dispute into one which can be entertained by of a writ court under Article 226 of the Constitution of India.

In view of the above, WPA 15468 of 2021 is dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)