

06.12.2021
SL No. 66
Court No. 24
(P.M.)

WPA 19062 of 2021

Golam Kibriya
Vs
The State of West Bengal & Ors.
(Via Video Conference)

Md. Sarwar Jahan,
Sk. Nayeemul Haque
... for the petitioner

Sk. Md. Galib,
Ms. Subhra Nag
... for the State

Mr. Dipankar Mondal
... for the respondent No. 7

The petitioner happens to be the Secretary of Jhunka High Madrasah (H.S.) He was elected in the year 2016 in the Guardian Representative category. The term of the Managing Committee was valid for three years. The term of the Managing Committee was thereafter extended by the West Bengal Board of Madrasah Education and the same is valid till 31st December, 2021 or till the completion of election of officer bearers.

The membership of a Guardian Member was to cease automatically after expiry of his/her guardianship.

The son of the petitioner appeared in the Madrasah Examination in the year 2020 and thereafter his son took admission in the same Madrasah and is pursuing his Higher Secondary course.

The teacher-in-charge of the said Madrasah issued a letter in favour of the petitioner on 20th November, 2021 indicating that his membership ceased on and from 30th April, 2020 as his son completed the class X course.

The petitioner refers to Rule 29 as mentioned in Appendix 1 (procedure for holding elections) in the Rules for Management of Recognized Non-Government Madrasah (Aided and Un-aided) Rules, 2002. The same refers to cessation of Guardianship.

It mentions that a guardian voter owes his eligibility as a voter under the category of Guardians in respect of a particular ward or wards. As soon as that ward or wards leave the Madrasah, the qualification of a guardian voter shall cease. In case a ward is sent for the High Madrasah examination in a particular year, the eligibility of the Guardian voter in respect of that ward shall cease from the first day of May of the following year.

In the instant case the son of the petitioner appeared in the Madrasah Examination in April, 2020. Thereafter the son of the petitioner took admission in Class XI and is pursuing his education in the said Madrasah.

The expression mentioned in the Rule is “leave the Madrasah”. In the instant case, the son of the petitioner never left the Madrasah. He took admission in Class XI after he appeared in the Class X examination. The son of

the petitioner will leave the Madrasah only after he appears in the Class XII examination.

The contention of the teacher-in-charge of the Madrasah who issued the impugned communication to the petitioner indicating that his membership ceased on account of his son appearing in the Class X examination without taking into consideration of his admission in Class XI immediately thereafter is not valid in the eye of law.

Accordingly, it is held that the petitioner remains to be the Guardian member of the Managing Committee till a fresh election is conducted by the Madrasah or till the son of the petitioner leaves the said Madrasah.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)