

10th March,
2021
(AK)
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W.P.A. 9795 of 2020

(Via Video Conference)

The Maha Bodhi Society of India
Vs.
The State of West Bengal & Ors.

Mr. Bidyut Kumar Banerjee
...For the Petitioner.

Mr. Ayan Banerjee
Mr. Souro Chaudhury
...For the State-respondents.

By a previous order dated February 26, 2021, an adjournment was granted to the State respondents for the purpose of ascertaining whether any injunction order is subsisting in connection with any of the pending litigations which could prevent the respondent no.2 from deciding the application of the petitioner dated July 15, 2019 for alteration of its Memorandum of Association.

When the matter is taken up for hearing today, learned counsel for the State respondent submits that no instruction regarding the subsistence of any injunction order has been communicated to learned counsel.

In consonance with the order dated February 26, 2021 and upon consideration of the contentions of the parties and the materials-on-record, it is evident that the refusal of respondent no.2 of the petitioner's application for the alteration of its Memorandum of Association dated July 15, 2019, being *de hors* Section 8 of the West Bengal

Societies Registration Act, 1961 and/or any other existing law, such refusal was *ex facie* illegal.

Mere pendency of litigations cannot operate *ipso facto* as an injunction on the respondent no.2 for refusing to consider the application for alteration of the Memorandum of Association.

As such, W.P.A. 9795 of 2020 is disposed of by setting aside the refusal dated July 15, 2019 by respondent no.2, of the petitioner's application for alteration of its Memorandum of Association.

Respondent no.2 shall re-consider the said application on its merits and in accordance with the relevant provisions of law, as indicated above, and decide on the same by one month from date and shall communicate the decision to the petitioner at the earliest thereafter.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)