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**Through Video Conference
MAT 814 of 2020
with
IA No. CAN 1 of 2020, CAN 2 of 2020 and CAN 3 of
2020
Hafiz Amiruddin and Ors.
-vs-
Khanpur Alhaj Afiatunnessa Madhyamik Shiksha
Kendra and Ors.**

Mr. Partha Sarathi Bhattacharya, Sr. Advocate
Mr. Saikat Chatterjee,
Mr. R. Chattopadhyay for the appellants

Mr. Abdur Rakib For the respondent
No. 12

Re : CAN 3 of 2020

There is a delay of 28 days in presenting the appeal. We have perused the grounds for the delay and we accept the explanations offered for not being able to present the appeal within the period of limitation.

Accordingly, the delay in presenting the memo of appeal is condoned. The condonation of delay is allowed.

Accordingly the CAN application being CAN no. 3 of 2020 is disposed of.

The application for leave to prefer the appeal and the stay petition are taken together and disposed of by this common order. The petitioners claimed representative of reconstituted Managing Committee made on 29th February, 2020. The petitioners alleged that self styled Managing Committee consisting of nine members mentioned in paragraph 2 of the application for leave to prefer the appeal was formed with no formal approval and/ or handing over the charge by the erstwhile Committee. Misrepresenting the fact the impugned order was obtained from the learned Single Judge by which direction was given to the District Officer,

Minority Affairs, Birbhum and Director of Madrasah Education, West Bengal in handing over the Management of the school from the outgoing Managing Committee to the presently reconstituted Managing Committee and complete the process in accordance with law. The petitioners say that they are the members of the outgoing Managing Committee. The guidelines of Madhyamik Siksha School (Senior Madrasah) under the Minority Affairs and Madrasah Education Department, Government of West Bengal amongst others prescribed the term of Managing Committee under rule 25 is of three years. It is an admitted position that the period of three years in so far as the present applicants are concerned being expired on 15th February, 2020.

Mr. Bhattacharya, learned senior advocate appearing on behalf of the appellant submitted that the reconstitution of the Managing Committee as communicated by the District Officer, Minority Affairs dated 1st October, 2020 is prior to the expiry of its tenure. However, having regard to the fact that the present committee has not taken over the charge and in the mean time the tenure of the present applicants as members of the erstwhile Managing Committee had expired it is immaterial that the notice dated January 21, 2020 could have obviously affected the right of the present petitioners.

The learned Single judge in our view was justified in describing the present applicants as members of the defunct outgoing Managing Committee and accordingly directed handing over of charge to the newly reconstituted Managing Committee in presence of the outgoing Managing Committee.

On such admitted facts that the tenure of the present applicants had expired on 15th February, 2020, there is no locus of the said members to have rising

audience before the learned Single Judge. On such conspectus it can be safely concluded that the present applicants are not the necessary parties or they were required to be made parties. Moreover, we find from the impugned order that the process of handing over the charge should be in accordance with law.

On such consideration the appeal being MAT 814 of 2020 and the applications being CAN 1 of 2020, CAN 2 of 2020 and CAN 3 of 2020 stand dismissed.

(Soumen Sen, J.)

(Saugata Bhattacharyya, J.)