

04.02.2021

SL No.29

Court No.12
BM

MAT 841 Of 2020
With
IA No.CAN 1 of 2020

Shibnagar High School & Anr.
Vs
State of West Bengal & Ors.

(Via Video Conference)

Mr. Sukanta Chakrabarty
Mr. Hasibul Islam
Mr. Anindya Halder
...for the Appellant.
Mr. Anindya Bose
Mr. Diptendu Mondal
... for the respondent/writ
petitioner no.11
Ms. Chaitali Bhattacharya
Mr. Subhendu Roychoudhury
... for the State

By consent of the parties the appeal and application has been taken up for hearing together and disposed of by common order.

The appellant is the Managing Committee of the School and the writ petitioner is the Head Master who has been discharging his function as Headmaster since 21st March, 2006.

The dispute is apparently between the Headmaster and the Teacher-in-Charge of the School. It appears that on 15th January, 2020 in order to settle the dispute in between the Headmaster and the Teacher-in-Charge of the School concerned a hearing took place before the District Inspector

of Schools(SE), Secondary Education, Murshidabad on 7th January, 2020 and after hearing all the parties the District Inspector of Schools passed, inter alia, the following order:-

“ On perusing the available records pertaining to the issue, it appears that Anarul Islam was appointed as Headmaster at Shibnagar High School (H.S) on 21.03.2006 vide approval Memo No.753-G dt. 16.05.2006 and after that things has been changed after the said Headmaster was on leave on and from 01.04.2017 to 06.08.2018. Such leave enjoyed by the said Headmaster is entirely unauthorised since no prior approval was conferred on it which prompted the concerned authority to nominate a senior most teacher to act as TIC.

However, in the meantime the Headmaster was allowed to join the school with a rider that though he draws the salary of Headmaster but not to perform the duty of Headmaster and the Administrative functions of the school is lying as usual with the TIC as appointed earlier.

Considering the above undersigned is of the view that no useful purpose is being served to keep the matter pending by way of recognising the appointment of TIC at this stage rather it would be beneficial in view of the relevant Govt. order to allow the Headmaster to perform his duties in all respect. It is not at all perceptible to allow a TIC to act as Headmaster when there is an approved Headmaster of a school and such kind of activity tantamount to complete violation of Rules.

Hence, it is directed to take all the possible steps to restore the original position of the Headmaster for which the president is requested to take up the matter with the Managing Committee by adopting a resolution to that effect within 15 days and also to take steps to sanction his unauthorised leave as well.”

This order has been accepted by the School. However, since the writ petitioner was not allowed to resume his function as Head Master a writ petition was filed for implementation of the order dated 15th January, 2020.

The learned Single Judge passed the necessary directions.

The School did not contemporaneously challenge the order dated 15th January, 2020 or even today. Once this order remains the School is bound by the said order. The

allegations of unauthorised absence was duly taken into consideration by the District Inspector of Schools in its order dated 15th January, 2020. There is nothing on record to show that any proceeding was initiated against the Headmaster for alleged unauthorised absence between 1st April, 2017 to 6th August, 2008.

On such consideration we do not interfere with the order passed by the Learned Single Judge. The School cannot have any complaint against the continuation of the writ petitioner pursuant to the order of the District Inspector of Schools dated 15th January, 2020. We reiterates that the School has accepted the said order. The direction passed by the learned Single Judge is merely consequential and for implementation of the order of the District Inspector of Schools dated 15th January, 2020.

On such consideration the appeal fails, however, there will be no order as to costs.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)