

29.08.2022
Court No.13
Item No.28
AP

WPA 893 of 2022

Shri Abhishek Bhadra
Vs.
The Chairman, CISCE & Ors.

Mr. Kishore Mukherjee
Mr. Sankha Subhra Ray

... For the Petitioner.

Mr. Debashis Saha
Mr. Moniruzzaman

... For the Respondent Nos.2 to 4.

The petitioner claims to have resigned from the post of Principal from the City English School but not as an Assistant Teacher. The school is unaided and affiliated to the Council for the Indian School Certificate Examinations (CISCE). The State does not pay any aid or allowance to the school.

The petitioner joined as an Assistant Teacher in the said school on 6th November 2017. The petitioner thereafter joined the post of Principal of the said school on 26th March 2019 and resigned therefrom on 29th February 2020, which was accepted by the said school on 2nd March 2020.

Counsel for the petitioner submits that the petitioner has resigned from the post of Principal only and not as an Assistant Teacher.

Counsel for the school submits that the writ petition is not maintainable against the school and the matter is within the realm of a private contract.

This Court notices that the resignation from the post of Assistant Teacher and joining as a Principal, automatically means that the petitioner was absorbed in the regular post of Principal and was functioning as such. The petitioner cannot now turn around and enforce a contract with the school as seeking benefits of an Assistant Teacher.

The petitioner in any event has not been able to demonstrate any public element for invoking the writ jurisdiction under Article 226 of the Constitution of India.

Reliance has been placed on the decision of a Supreme Court in the case of ***Marwari Balika Vidyalaya Vs. Asha Srivastava*** reported in **(2020) 14 SCC 449** which is not found appropriate.

This Court even otherwise does not find any public element in the disputes between the parties.

In these circumstances, no relief can be granted to the petitioner.

However, liberty is reserved to the petitioner to seek enforcement of any contract, claim, damages therein against the respondents in an appropriate civil or other proceeding if otherwise maintainable in law.

With the aforesaid directions, the writ petition shall stand disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)