

18.02.2022

Court : 04
Item : 20
Matter : **MAT**
Status : DISMISSED
Transcriber: nandy

MAT 78 of 2022
with
CAN 1 of 2022

The Managing Committee of Bardhaman Bidyarthi
Bhavan Girl's High School & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari, Advocate
Mr. Sk. Intiaj Uddin, Advocate

.....for the Appellant

Mr. Raja Saha, Advocate
Mr. Bapin Ghosh, Advocate

.....for the State

The managing committee of the school is still pursuing the matter before this Court when the stand of the State was very categorical that the said managing committee has not been superseded by an order dated December 1, 2021. The writ-petition was taken out by the managing committee of the school represented through the erstwhile President challenging the order dated December 1, 2021 with categorical observation that by virtue of the said order, the entire managing committee has been scrapped and dissolved. However, it was candid stand of the State authority that by virtue of the said order the managing committee has not been superseded nor scraped but the nomination of a President has subsequently been withdrawn and replaced by another person.

The attention of the trial Court was drawn to Rule 10 of the Management of Sponsored

Institutions (Secondary), 1972, as amended, wherein the power is conferred upon the authority either to withdraw the nomination of the President or any Person Interested in Education on the Committee of an Institution before the expiration of the term. It is no doubt true that the enabling provision of Rule 10 prescribed the tenure of the committee to be three years from the date of the first meeting of the committee subject to a further extension, as may be granted by the State Government. Rule 5 deals with the composition of the committee, which imbibe within itself, the post of the President to be nominated by the Department of School Education of the State Government. The post of the President is required to be held by a person nominated by the Department of School Education and in view of the second proviso contained in Rule 10, it is within the realm of the State authority either to withdraw the nomination of a President or to any person interested in the education. The plea sought to be taken by the managing committee before us that the recalling of the nomination can only be made upon recording satisfaction upon any formal or informal information and that too for better academic and administrative interest of the concerned institution.

Mr. Bari, learned Advocate for the appellant, emphasized on the later portion of the said second

proviso to Rule 10 and arduously submits that in absence of such satisfaction having surfaced in the said order, such order cannot be sustained.

We are not impressed with the aforesaid submission for the simple reason that by order dated December 10, 2021, the managing committee was not superseded but, in fact, the President was replaced in exercise of the power conferred under the second proviso to Rule 10. The satisfaction of the authority on the basis of the formal and informal information in the better academic and administrative interest of the institution is within the administrative domain. No person nominated as President by the State authority can claim any right to such post not even for the term of the managing committee enshrined therein. The administration relating to education is an important facet of the constitutional obligation as it largely creates an impact on the future of the country and its development. The expression “formal or informal information” has to be taken into consideration in the better administration or academic interest of the institution or the beneficiaries thereof. If the authorities have received an information and are satisfied that the replacement of the President is in the better interest of the concerned institution both academically and otherwise, we do not find that the order should fall thereupon at the behest of the

managing committee. Furthermore, the President who have been replaced keeping the managing committee alive or in tact, cannot show a special or personal interest in the administration of the institution nor the other members of the committee should have joined him as the authority thought his replacement is for the better interest of the institution.

We thus find no illegality and infirmity in the impugned order.

The appeal being **MAT 78 of 2022** is accordingly **dismissed**. The connected application being **CAN 1 of 2022** also stand **dismissed**.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

