

S/L 46
10.6.2022
Court. No. 19
sn

WPA 3625 of 2022

Dalhousie Institute & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Saptangshu Basu..Sr.Adv.
Mr. Pratimpriya Dasgupta
Mr. M.M. Chandra
Mr. S. Ray

... for the Petitioners

Mr. Samrat Sen
Ms. Manali Ali
Ms. Amrita Panja Moulick ..for the State

Mr. Rupraj Banerjee
Mr. Sohan De Dhara ..for the respdts.6-12

Mr. Suvadip Bhattacharjee
Mr. Balaram Patra ..for the respdt. 5

Mr. Mainak Bose
Mr. Rajesh Upadhyay ..for the intervener

The petitioner no.1 is a registered society and a club. The petitioner no.2, claims to be the honorary secretary of the said club. The Dalhousie Institute is a club with heritage. It has been functioning for several years. It is submitted that during the Covid period, the club was shut down and the workers who were engaged through a contractor were discontinued upon payment of legitimate dues.

When the management decided to re-open the club, those workers started to raise objections and created disturbance. They obstructed the members of the club from entering into the club premises and use its facilities.

Allegation is that in the name of a demonstration, the protestors became violent. A complaint was lodged with the Karaya Police Station by the petitioners. The allegation is that the Officer-in-Charge, Karaya Police Station did not take any steps in this regard. The petitioners also approached the learned Executive Magistrate, 1st Court, Alipore, under Section 144(2) of the Code of Criminal Procedure. The order passed by the learned Magistrate in force.

Mr. Banerjee, learned advocate for the respondent nos. 6 to 12, (workers) submits that the contention of the petitioners are not correct. According to Mr. Banerjee, under the pretext of a closure, the respondent nos.6-12 were illegally terminated, without any notice. Mr. Banerjee categorically submits that the workers were engaged directly by the club and not through any contractor.

Mr. Bhattacharjee, learned advocate for the respondent no.5 submits that the staff were wrongfully terminated under the garb of a closure and against such wrongful termination an industrial dispute was raised. It is further submitted on behalf of the said respondents that the conciliation proceeding failed and such failure resulted in the reference of the matter before the Industrial Tribunal. The matter was referred to the 7th Industrial Tribunal by the Joint Secretary to the Government of West Bengal, Labour Department.

Both of them submit that the money was accepted under protest and without prejudice to the workers right to approach the appropriate forum.

Ms. Ali, learned advocate for the police authorities submits that a peaceful demonstration by some of the erstwhile workers was being held, but there were no law and order problems.

Mr. Bose, learned advocate appearing on behalf of the intervenors in the matter, on behalf of some senior members of the club supports the cause of the petitioner No.1. He submits that the club should be allowed to be fully functional and no disruption should be caused.

Heard the learned advocates for the parties.

This Court is of the view that the cause of the erstwhile employees who were allegedly terminated is already before the Industrial Tribunal. All rights of the employees before the Tribunal and before the Government of West Bengal are kept open for adjudication. The club shall function and the office bearers as also the members of the club shall not be prevented from entering into the club premises and from enjoying the facilities. There must be free ingress to and egress and from the club. Police authorities shall ensure safe passage.

Peaceful demonstration by the erstwhile employees is permitted at a reasonable distance away

from entrance gate. The sound limit should be maintained. Aggressive demonstration and abusive speeches are not permitted. The demonstration shall not cause any obstruction to the pedestrians and free flow of traffic. Both the parties will continue with their activities, peacefully.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)