

28.04.2022
Item No.15
Court No.6.
AB

**M.A.T. 615 of 2022
With
I A CAN 1 of 2022**

**The Chairman, Contai Municipality,
Purba Medinipur & Anr.
Vs
Sk. Imran & Others**

Mr. Biswarup Bhattacharya,
Mr. Ritam Chowdhury,
Mr. Sourat Nandy ...for the Appellants.

Mr. Raja Saha,
Mr. Rajat Dutta ...for the State.

Mr. Saptangsu Basu, Sr. Advocate,
Mr. Soumen Kumar Dutta,
Ms. Arpita Kundu,
Mr. Sabyasachi Bhattacharya
...for the Respondent Nos.1 to 7.

By consent of the parties, the appeal and the application are taken up for hearing.

The writ petitioners, claiming themselves to be students and ex-students of Probhat Kumar College, Contai, approached the learned Single Judge praying, inter alia, for a direction upon the Chairman of the Contai Municipality to grant 'no objection' in their favour to hold a fair namely, 'Baishakhi Mela' from April 20, 2022 to June 3, 2022 on the grounds of the said college.

The learned Single Judge allowed the writ petition giving, inter alia, a direction upon the

Chairman of the Municipality to grant such permission.

It appears that the writ petitioners on April 8, 2022 made an application before the Principal of Probhat Kumar College, Contai, for holding a fair on the playground adjacent to the said college from April 20, 2022 to June 3, 2022. On the same day, the Principal of the college allowed the said application and granted them permission to hold such fair on the said playground.

Thereafter, the writ petitioners approached, amongst other authorities, the Chairman of the Contai Municipality for his permission. Their application was not responded to for the obvious reason that the Municipality itself desired to hold another fair on the same premises between May 9, 2022 and June 30, 2022. In fact, the Municipality also sought permission for utilisation of the land from the college authority on April 11, 2022.

It appears that the Principal of the college by a letter dated April 18, 2022, informed the Chairman of the Municipality that since permission had already been granted to the Students' Unit for holding 'Baisakhi Mela' between April 20, 2022 and June 3, 2022, he was not in a position to grant permission to the Municipality for the fair.

Since no response came from the Municipality, the writ petitioners approached the learned Single

Judge seeking a direction upon the Municipality as indicated above.

Before us, Mr. Biswarup Bhattacharya, learned Counsel appearing for the appellants/municipality strenuously argued that the writ petitioners are not members of the students' union of the said college. They do not have any right to approach the college seeking permission for organising such fair. He further submitted that it is in discharge of obligation flowing from Article 243W that the Municipality intends to organise a fair to promote different self-help groups.

When the appeal was taken up for hearing on the last occasion, we enquired from the parties as to the ownership of the land in question since in our view, the fate of this appeal depended on such question.

In response to our query, the writ petitioners have filed a supplementary affidavit disclosing the relevant Record of Rights, which shows that the name of the college stands recorded as raiyat of the land in question on the strength of a sale deed.

This factual aspect has not been disputed by any of the parties. In fact, Mr. Saha, learned Counsel appearing for the State fairly submits that the land in question belongs to the college.

When this factual aspect is clear before this Court, there is no difficulty in deciding the appeal on the basis of the ownership of the land in question

since it is the prerogative of the owner of the land to decide as to whom the permission for the utilisation of the land is to be given. Admittedly, in this case, the Principal of the college upon taking consent of the President of the Governing Body of the college granted permission to the writ petitioners for holding the fair on the scheduled dates. The request of the Municipality was subsequent to such permission. We do not find any unreasonableness in the decision of the college. This Court cannot give any direction upon the College to grant permission in favour of a particular person or body. The decision is absolutely within the domain of the College administration.

We need not go into any other aspect of the matter.

It has been submitted before us that the Municipality has already obtained fire licence from the relevant authority for holding the fair on the land in question and the writ petitioners also approached the authority on April 22, 2022, seeking fire licence. Since we have held that the writ petitioners are entitled to organise the fair on the playground in question, the fire licence authority will process the application filed by the writ petitioners within 72 hours from the date of communication of this order, subject to compliance of all formalities by the writ petitioners.

Needless to say that the Municipality will be entitled to organize the fair that it has contemplated on any other land.

Since we have not called for affidavits, the allegations in the stay application are deemed not to be admitted by the respondents.

MAT No.615 of 2022 stands disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)