

12.07.2022

Sl.No. 2
Ct.No.3
Amalranjan

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMAT 668 of 2019

Sri Jagannath Dutta
VS
Bhagwati Balika Vidyalaya & Ors.

Mr. Jagannath Dutta
...appellant (in person)

Ms. Koyeli Bhattacharyya
...for the respondent/school

We have heard the appellant appearing in-person and also Mrs. Koyeli Bhattacharyya, learned counsel appearing for the School.

The appellant is the father of Dalia Dutta, a former student of Bhagwati Balika Vidyalaya. The appellant instituted a suit in the learned City Civil Court at Calcutta, Title Suit No. 357 of 2013 claiming damages of Rs. 5 lakhs against Bhagwati Balika Vidyalaya of 1, Bankim Chatterjee Street, Kolkata-700073.

The cause of action of the appellant/plaintiff in the suit in short is that the school wrongfully and illegally prevented Dalia Dutta from sitting in the Madhyamik examination of 2011. For this reason, the student had to migrate elsewhere and ultimately after a passage of two years

cleared the examination in 2013 privately, thus, wasting two years.

The learned court below by a judgment and decree dated 24th April, 2018 dismissed the suit. Hence, this appeal.

On examination of the facts, it appears that prior to taking admission in Bhagwati Balika Vidyalaya, the student studied in Mitra Balika Vidyalaya. In 2010 she was unable to clear Class IX of that school. In that year itself she sought admission in Bhagwati Balika Vidyalaya in Class X, so that she could appear in the school final examination in 2011.

The school ruled that according to Regulation 17 of the West Bengal Board of Secondary Education a student had to undergo at least two years' study in a secondary school with 70% attendance in Classes IX and X to be eligible to be sent up for the Board examination. If attendance was less than 50% a student could not be allowed to sit for the board examination. If it were between 50 and 70 percent, her case could be considered.

Not having cleared even Class IX the appellant's daughter Dalia Dutta was instructed by the school to clear Class IX from elsewhere or

from that school. Only then could she apply for admission into Class X.

However, it appears that for whatever reason for a short period of 28 days she had been admitted into Class X of Bhagwati Balika Vidyalaya. Soon thereafter on discovery of this mistakes, she was reverted back to Class IX after 28 days. She did not complete Class IX in that school and left it.

The whole case of the appellant is founded on the fact that since the school had admitted Dalia Dutta in Class X they were bound to send her up for the Board Examination in 2011. Not having done so, they have wasted two years of her career and bound to pay damages.

No right can be claimed against law. No estoppel operates against law. Regulation 17 of the Board makes it clear as aforesaid that an aspirant for the said secondary examination should spend two years in Class IX and X and clear it with 70% attendance or at least attendance between 50 to 70 percent, after condonation of the shortfall.

Admittedly, the appellant did not have any certificate of having completed Class IX. For this reason she was not allowed to attend Class X or proceed to appear in the Board Examination.

We do not find any infirmity in this decision.

Nevertheless, the respondent school was not justified in misleading Dalia Dutta and admitting her into Class X even for a short period. The respondent school Bhagwati Balika Vidyalaya is, thus, liable to return to the appellant all fees and charges taken from her for studying in Class X together with simple interest thereon @ 6% per annum from 2010 which we assess at Rs. 5,000/- to be paid to the appellant by the respondent school by 4th August, 2022.

The impugned judgment and decree is modified to the above extent.

The appeal is, thus, disposed of.

(Subhendu Samanta,J.) (I. P. Mukerji,J.)