

76 **03.01.22**

Ct. No. 04

Akd

M.A.T. 1227 of 2021

With

CAN 1 of 2021

Aparna Das

Vs.

The State of West Bengal & Ors.

Mr. Pingal Bhattacharyya.

... for the appellant.

Mr. Krishna Deo Das,

Mr. Arijit Pradhan.

... for the respondent no. 14.

Mr. Ritwik Pattanayak,

Ms. Cardina Roy.

... for the respondent no. 20.

Ms. Koyeli Bhattacharyya.

... for the W.B.B.S.E.

The instant appeal has been preferred against an order dated 9th November, 2021 passed by the learned Single Bench in WPA 14605 of 2021; whereby and whereunder the parties were directed to exchange their affidavits, so that the writ petition can be conveniently decided thereupon.

Learned Advocate for the appellant is very much vocal in his submission that under the Rules pertaining to mutual transfer there is an obligation cast upon the managing committee of the school as well as the other authorities to issue a release order within the timeline indicated therein. Since the timeline has not been adhered to and, in fact, a show cause was issued against the petitioner for filing the writ petition before this Court impleading the Headmaster of the school as respondent, the matter was mentioned to be taken up out of turn citing the urgency on such score alone.

However, the Single Bench after hearing the submissions noticed that the matter requires to be decided upon exchange of affidavits and, therefore, no decision has yet been taken thereupon.

In course of hearing the learned Advocate for the appellant put much emphasis on the fact that the Headmaster of the school, where the appellant is presently working, issued a show cause notice subsequent to the filing of the writ petition, which shows malice on his part.

It is no doubt true that subsequent events have taken place after the filing of the writ petition. The writ petition is at the nebulous stage and has to be decided on the basis of the pleadings and the reliefs claimed therein. Any subsequent action of the authority is susceptible to be taken out in this regard provided the same is incorporated in the pleading and the appropriate reliefs are claimed by making an amendment. The Court should be slow and circumspect in passing an order merely on submissions advanced at the Bar and the production of the documents, which do not form part of the record.

Since no right has been invaded in the impugned order, we do not think that the appellant can be said to be an aggrieved person in this regard. Furthermore, the Appellate Court should not usurp the jurisdiction of the Single Bench and take off the writ petition from the file and dispose of the same as a formal order is required to be passed, as has been passed earlier by the Co-ordinate Bench.

We thus do not find any ground warranting interference with the impugned order.

The appeal is thus dismissed. Connected application is also dismissed.

There will be no order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

