

Court No. 22
23.6.2022
(Item No. 12)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 17392 of 2009

Md. Mojibur Rahaman & Ors.
VS
The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharyya
Mr. Prahlad Chandra Ghosh
Mr. Subir Hazra
..... for the petitioners
Mr. Ranjan Saha
..... for the State
Ms. Koyeli Bhattacharyya
.... For W.B.B.S.E.

Mr. Prahlad Chandra Ghosh, learned advocate
appears for the writ petitioners.

Affidavit of service filed today, is taken on record.

Ms. Koyeli Bhattacharyya, learned advocate
appears for the West Bengal Board of Secondary
Education.

This is the 4th round of writ petition between the
same parties on the self-same cause of action and issue as
to recognition of a Junior High School under the name and
style of Nashipur Junior High School.

By virtue of an order dated December 15, 2008 the
Division Bench of this Court made an observation that it is
for the Recognition Committee of the Board to consider the
matter in the light of the report of the District Level
Inspection Team and it was also observed that the
Recognition Committee of the Board shall not only take
into consideration the report of the District Level Inspection

Team, but also give an opportunity of hearing to all concerned in the matter. Thereafter, the Board shall pass a speaking and reasoned order.

Pursuant to the said direction hearing was afforded to the parties concerned and apparently a reasoned order was passed on May 29, 2009 by the Executive Committee of the Board in the hearing took place on April 3, 2009. It is expressly clear from the said impugned order dated May 29, 2009, which is impugned in the instant writ petition that the decision was taken by the Executive Committee of the Board and not by the Recognition Committee of the Board, though the communication was signed by the Secretary of the Board.

In such circumstances, Mr. Kamallesh Bhattacharyya, learned counsel appearing with Mr. Prahlad Chandra Ghosh, learned advocate for the writ petitioners submits that the authority who decided the issue namely Executive Committee of the Board had no jurisdiction to decide the same, as the Hon'ble Division Bench in its said order dated 15th December, 2008 directed the Recognition Committee of the Board to decide the same. As such the said impugned order is liable to be set aside. It is also submitted that the matter may be remitted back for the decision of the Recognition Committee of the Board.

Ms. Koyeli Bhattacharyya, learned advocate for the West Bengal Board of Secondary Education, 5th respondent submits that, at present, since 2011 the Board is functioning under an Ad-hoc Committee in terms of the relevant notifications published by the State.

In such situation, the learned advocates representing the appearing parties have agreed and consented specifically for the President of the Board to decide the issue.

In view of the above, the President of the 5th respondent Board is directed to decide the issue ***in the light of the judgment and order dated December 15, 2008 passed by the Division Bench in MAT No. 741 of 2008 being annexure P-17*** to the writ petition positively within ten weeks from the communication this order.

On the aforesaid terms the writ petition being **WPA 17392 of 2009** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)