

14.11.2022
sayandeep
Sl. No. 07
Ct. No. 05

WPA 23912 of 2022

Subrata Banerjee
-Versus-
The Union of India & Ors.

Mr. Pratyush Patwari

.....for the petitioner

Mr. P.S. Mullick

Mr. R. Mishra

..... for the respondent No. 2

Mr. Raja Saha

Mr. Prantik Gorai

.... for the State

Mr. Debebrata Saha Roy

Mr. Pinjal Bhattacharyya

....for the private respondent

A point of maintainability has been taken on behalf of the respondent No. 6, who claims to be the Secretary of the Bengal Taekwondo Association. Learned counsel appearing for the private respondent No. 6 submits that the petitioner had filed a Civil Suit in September, 2022 before the Sealdah Court being T.S. No. 366 of 2022 and has not obtained any interim order in the said suit. It is also submitted that the petitioner is seeking the relief of representing the Bengal Taekwondo Association despite not challenging an order passed by the Court Commissioner-cum-Returning Officer on 28th October, 2022. Counsel further submits that the dispute is purely private in

nature and the petitioner should avail of the civil remedy available to the petitioner.

Learned counsel appearing for the petitioner opposes the grounds taken by the private respondent. Counsel submits that the writ petitioner seeks to challenge the order passed by the Court Commissioner in October, 2022 and relies on an order of a learned Single Judge of the Telangana High Court in *M. Srinivas & Ors. vs. Union of India & Ors.* decided on 9th November, 2022.

The urgency in the writ petition arises from the fact that the election of the respondent No. 4 being the Taekwondo Federation of India is due to take place today, i.e., 14th November, 2022. The petitioner accordingly seeks to represent the Bengal Taekwondo Association in the said election.

First, it is arguable whether the dispute before the Court qualifies as a dispute under Article 226 of the Constitution of India since the Taekwondo Federation of India does not appear to be exercising sovereign powers of the State or any function which can be said to be public in nature or in implication. Selecting Taekwondo players for competitions cannot be a public function, whatever the implication may be.

It is also significant that the petitioner filed a Civil Suit in September, 2022 for the same relief. The petitioner was unable to obtain any interim order in the

said suit and the suit is pending as on date. The Court further has reservations on whether the order of the Court Commissioner passed on 28th October, 2022 can be called to question by way of the present writ petition. It is relevant to state that the Court Commissioner was appointed pursuant to an order of the Delhi High Court on 28th April, 2022. The petitioner has asked for quashing of the order in the present writ petition couched in the prayer for a writ of certiorari. Apart from the conduct of the petitioner in pursuing his civil remedies and not taking urgent steps for having the suit decided, the order of the Court Commissioner records facts which show that the respondent No. 6 was allowed to vote from 2016 onwards. The order also contains observations of the petitioner's inaction in the pending suit.

The order of the Telangana High Court was on different facts. There was no pending civil suit in the said matter. In any event, the learned Judge also observed that the competent jurisdictional Civil Court would alone have the jurisdiction to decide the dispute between the parties.

WPA 23912 of 2022 is dismissed in view of the above without any order as to costs.

The petitioner shall of course be at liberty of pursuing his civil remedies in the suit which is pending before the learned Sealdah Court.

Since the prayer for consideration of the representation is made after the dictation of the order, such prayer is refused.

(Moushumi Bhattacharya, J.)