

25 01-02-2023
AKG
Ct. 238

WPA 1286 of 2023

**Bagnan Teachers Training College & Anr.
Vs.
Baba Saheb Ambedkar Education University & Ors.**

Mr. Bikash Ranjan Bhattacharhya,
Mr. Rabindra Nath Mahato,
Mr. Kallol Basu,
Mr. Aritra Shankar Ray,
Mr. Samik Sarkar

...for the Petitioners

Mr. Subir Sanyal,
Mr. Sumouli Sarkar,
Mr. Sagnik Roy Chowdhury

...for Respondent Nos. 4 to 8

Mr. Amitabrata Roy,
Mr. Pradip Kumar Ghosh

...for the University

Mr. Sabir Ahmed,
Mr. Biswajit Sarkar

...for the Respondent No. 3

Mr. Swapan Kr. Datta,
Mr. Dipankar Das Gupta

...for the State

Dr. Mohammad Amanullah, as a settler, created a trust named Dr. Mohammad Amanullah Foundation, which runs a B.Ed. college called Bagnan Teachers Training College (hereinafter referred to as “the college”). He passed away on June 20, 2015. After his death, a dispute arose between his father, Mr. Ataur Rahaman, and daughter-in-law, Shabnam Ali @ Shabnam Aman, regarding the trust and management of the college.

Mr. Ataur Rahaman claiming himself to be the representative of the college filed Title Suit no.405 of 2016 before the learned Civil Judge (Jr. Divn.) 2nd Court at

Uluberia against Shabnam and others. The main prayers of the said suit are quoted below :

- “a) A leave under Order 2 Rule 2 of the Code of Civil Procedure 1908.
- b) A further decree declaring that the properties described in the schedule to plaint are owned by the plaintiff, Bagnan Teachers Training College and the defendants have no right title and interest therein or to immediate in the management of the college on the strength of the illegal, fraudulent purported deed of rectification and appointment dated 31/7/15 executed by the defendant no. 1.
- c) A further decree declaring that the defendants have no right to create any disturbance in the peaceful running of the plaintiff college under the management and administration of Ataur Rahaman as the Ex-Officio Secretary of the college and the present Chairman of the Trust named Dr. Mihammad Amanullah Foundation.
- d) Decree of declaration that the plaintiff is entitled to carry on the function of the plaintiff school/college.
- e) Permanent injunction restraining the defendant from causing any disturbance of peaceful running of the school/college or from disturbing administrative function of the college or from damaging the suit property.
- f) Costs,

g) any other relief the plaintiff is entitled to in law and equity.”

In connection with the said suit, an application for injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 was filed by Ataur and on August 31, 2016 the Civil Court restrained Shabnam from causing disturbance to the peaceful running of the college till September 9, 2016.

The said ad interim injunction granted on August 31, 2016, was, however, vacated by the Civil Court on August 20, 2022.

Shabnam, thereafter, claiming herself to be the Secretary and authorised Signatory of the college made a representation before respondent no.1, Baba Saheb Ambedkar Education University.

It was the case of Shabnam that since its inception, the College used to communicate with the University through an email I.D, bagnanttchowrah@gmail.com. The University on the basis of the ad interim injunction granted on August 31, 2022 changed the said email I.D. from bagnanttchowrah@gmail.com to bagnanttcollege@gmail.com.

She suggests that since the said interim order has been vacated, the University ought to have restored the original email I.D, bagnanttchowrah@gmail.com.

Mr. Mahato, learned advocate appearing for the petitioner submits that despite the representation being made, the University has not taken any step to restore email I.D. bagnanttchowrah@gmail.com.

It is the submission of Mr. Mahato that Shabnam along with the other trustees has been running the college from the beginning. Due to a different email I.D. provided by the University to Ataur and his associates, she is unable to admit the students and make necessary correspondences with the University though the physical control of the college is with her.

Mr. Mahato has drawn attention of this Court to Clause 13.05 (C) of the trust deed to suggest that Shabnam being the wife of the original settler, has the rightful authority to run the trust as a Chairman.

Mr. Sanyal, learned advocate appearing for respondent nos. 4 to 8 on the other hand submits that the college is being run by them and they are in control of its affairs. The University has rightly allowed the college to communicate through the email I.D, bagnanttcollege@gmail.com.

It has been submitted by Mr. Sanyal that the disputes between the parties are subject matter of the pending civil suit. It has further been submitted that Shabnam also has filed Title Suit 548 of 2022 claiming herself to be the settler of the trust and the Secretary of the said college before the learned Civil Judge (Jr. Division), 2nd Court at Uluberia.

I am not inclined to adjudicate the issues as raised by the parties before this Court.

The disputes are entirely civil in nature and the factual aspects involved in the case cannot be gone into by a writ Court. When a competent Civil Court is in seisin of the matter, the claim of the petitioners should be decided by the said Court only.

In that view of the matter this writ petition is disposed of granting a liberty upon Shabnam to file an appropriate application before the learned Civil Judge (Jr. Division), 2nd Court at Uluberia, for restoration of the email I.D, bagnanttchowrah@gmail.com within a period of ten days from date. Respondent nos. 4 to 8 will be at liberty to file objection to such claim before the learned Civil Judge within seven days thereafter.

If such application is filed, the learned Civil Judge (Jr. Divn.) shall decide the application as expeditiously as possible, preferably within a period of three months from date and issue the consequential direction upon the University with regard to the email I.D. through which the college will make necessary communications with the University.

Needless to say, I have not gone into the merits of the issues. The learned Civil Judge shall decide the same in accordance with law without being influenced by any observations made in this order.

Needless to mention the University shall promptly comply with the order passed by the Civil Court.

WPA 1286 of 2023 is accordingly disposed of.

Urgent photostat certified copy of this order, if

applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)