

Item-12. 10-10-2023

sg Ct. 8

FMA 1513 of 2015

West Bengal Council of Higher
Secondary Education & Ors.
Versus
Naba Nalanda Shantiniketan
Higher Secondary School & Ors.

1. The parties are not represented nor any accommodation is prayed for on behalf of the parties.
2. The appeal had appeared in the warning list of cases on and from 19th September, 2023 with a clear indication that the said matter shall be transferred to the Regular Bench on 6th October, 2023. The appeal is again listed today in the main cause list. All the parties have sufficient notice about the listing of the matter before the Regular Bench on and from 6th October, 2023.
3. The appeal was filed on 24.12.2014. The record shows that no attempt has been made to move this appeal after it was filed. No step has been taken to serve notice and prepare paper books. It clearly shows that the appellants are not interested to proceed with the appeal and have virtually abandoned the appeal.
4. However, we considered the materials on record and the impugned order. The learned Single Judge, on the basis of the materials, had arrived at a finding that the process of appointment of the Administrator was vitiated by procedural infirmities. This finding is arrived at on the basis of the relevant records produced by Dr. Sutanu Kumar Patra at the

time of hearing.

5. It appears from the record that a purported meeting of the Council was conducted on 17th July, 2014, begin its 299th meeting, wherein it was resolved vide Item No. 12 that the President be empowered to take necessary action to look into the complaints that had been received in regard to alleged mal-functioning of the school. It further appears from such records that the President had directed appointment of the administrator, which was sought to be communicated by the Secretary of the Council by the memo dated October 20, 2014.
6. In terms of the provisions of the West Bengal Council of Higher Secondary Education Act, 1975, (hereinafter the '1975 Act') as amended by the West Bengal Council of Higher Secondary Education (Amendment) Act, 2006, the Council is a body comprising in excess of 80 (eighty) members. However, the 299th meeting referred to above was attended by only 8 (eight) members. In terms of such-section (3) of Section 23 of the 1975 Act, 1/3rd of the total numbers of the Council shall form a quorum at any meeting of the Council. Since 8 (eight) members were present and there was no quorum, any decision taken at the 299th meeting to empower the President to look after the affairs of the school is invalid and inoperative.
7. The case of extreme emergency contemplated under Section 22(2) of the 1975 Act, could not be made out and substantiated. Under such circumstances, we do not find any

reason to interfere with the order of the learned Single Judge.

8. The appeal fails and dismissed accordingly.

(Uday Kumar, J.)

(Soumen Sen, J.)