

11 08.02.2023
rkd Ct.15

W.P.A. 3549 of 2015

Shri Bhama Shah Arya Vidyalay & Ors.

-vs-

The State of West Bengal & Ors.

Ms. Santi Das

....for the petitioner.

Mr. Arindam Chattopadhyay,

Ms. Lipika Chatterjee

....for the State.

The writ petition is taken up for consideration pursuant to the order dated 30th January, 2023.

Mr. Chattopadhyay, learned advocate representing the State respondents has filed a report signed by the District Inspector of Schools (S.E.), Kolakata dated 6th February, 2023 which is taken on record.

From the said report dated 6th February, 2023, it appears that the West Bengal Board of Secondary Education vide memo dated 6th April, 1990 inducted *Ad hoc* Committee to run Shri Bhama Shah Arya Vidyalaya, Kolkata (hereinafter referred to as the "said school"). The tenure of the said *Ad hoc* Committee was extended from time to time from the month of April, 1990. Subsequently, the said school vide memo dated 30th September, 2013 was converted from non-Government Aided High School to Government Sponsored School.

After such conversion was made the Joint Secretary, School Education Department, issued memo dated 24th December, 2014 for constitution of a sponsored committee of the said school which is at page 89 of the writ petition. Such memo dated 24th December, 2014 issued by the Joint Secretary disclosing names of the office bearers of the sponsored committee is the subject matter of challenge in the present writ petition on the ground that the President, namely, Hari Prasad Gupta and one of the members under the category of Person Interested in Education, namely, Md. Nazimuddin are parties to the Title Suit No.513 of 2010 being defendant nos.3 & 12 respectively which is pending before the City Civil Court at Kolkata.

It has been submitted by Ms. Das, learned advocate representing the said school authority being the petitioners that the allegation contained in the said civil suit is an attempt on the part of the said defendant nos.3 & 12 to close down the said school and use the school premises for commercial purpose.

It has also been submitted that the aforesaid two defendants are the land owners. Therefore, apprehension which has been expressed on behalf of the said school authority by instituting

this proceeding before the Court is if these two defendants one as President and another as a Member of the Sponsored Committee under the category of Persons Interested in Education are inducted that will be against academic interest of the said school.

A coordinate Bench upon considering the aforesaid facts passed an interim order on 5th February, 2015 on this writ petition staying the operation of the order dated 24th December, 2014 issued by the Joint Secretary whereby aforesaid two defendants in the pending civil suit were inducted as President and Member of the Sponsored Committee.

This Court finds substance in the case made out in the writ petition in consideration of the fact that till date the civil suit is pending consideration and the President and one of the members under the category of Person Interested in Education, namely, Hari Prasad Gupta and Md. Nazimuddin are parties to that civil suit as indicated above.

At this stage, if these two persons are permitted to function as President and Member of the Sponsored Committee by the dint of the order dated 24th December, 2014 issued by the Joint

Secretary that may go against the academic interest of the said school.

Accordingly, the order dated 24th December, 2014 issued by the Joint Secretary whereby attempt has been made to induct parties to the said civil suit as President and Member of the Sponsored Committee stands set aside.

The Joint Secretary, School Education Department, Secondary Branch being the respondent no.3 is directed to issue fresh order for constitution of Sponsored Committee to run the management of the said school at an early date but preferably within a period of six weeks from the date of communication of this order.

Till Sponsored Committee is constituted by respondent no.3 afresh the *Ad hoc* Committee which has been running the administration of the school shall continue to run. However, it is made clear that after constitution of the Sponsored Committee in terms of the order passed by this Court the present *Ad hoc* Committee shall hand over the charge immediately to the Sponsored Committee.

With the aforesaid directions, the writ petition stands disposed of.

However, there shall be no order as to

costs.

Affidavit-of-service filed on behalf of the petitioners is taken on record.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)