

01.05.2023
Item No. 8
Crt.11
b.r.

MAT 428 of 2023
IA No. CAN 1 of 2023

Bagnan Teachers Training College & Anr.
-vs-
Baba Saheb Ambedkar Education University & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Rabindranath Mahato
Mr. Sahid Ali Khan
Mr. Aritra Shankar Ray
..... for the appellants.

Mr. Jaydip Kar, Sr. Adv.
Mr. Amitabrata Roy
Mr. Pradip Kumar Ghosh
Mr. Amadipta Sengupta
..... for the University.

Mr. Subir Sanyal
Ms. Sumouli Sarkar
Mr. Sagnik Roy Chowdhury
..... for the Resp. Nos. 4 to 7.

Mr. Swapan Kumar Datta, Ld. AGP.
Mr. Dipankar Das Gupta
..... for the State-respondents.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

The challenge in this appeal is to the order of the
Hon'ble Single Bench dated 1st of February, 2023 in
the writ petition being WPA 1286 of 2023.

By the said impugned order, the Hon'ble Single
Bench was pleased to take notice of pending civil
litigation instituted by and between the appellants/the
writ petitioners and the private respondents, more
particularly the private respondent no.4. At the core of
the dispute is the conflicting efforts respectively made

by one Ms. Shabnam Ali describing herself to be the successor-in-interest of her husband, the Settlor of a Trust which runs the appellant/writ petitioner no.1, the Bagnan Teachers Training College (for short, the College-in-issue).

The Hon'ble Single Bench took notice of the fact that by way of an ad interim order of injunction granted in Title Suit No. 405 of 2016 by the learned 2nd Civil Court (Junior Division), Uluberia, the respondent no.4, acting as the plaintiff therein, had secured the administrative control of the College-in-issue. Such administrative control was endorsed by the University-in-issue, which is the respondent no.1 to this appeal.

Mr. Bhattacharyya, Learned Senior Counsel appearing for the appellants with Mr. Mahato, Learned Counsel, points out that the ad interim order of injunction granted in favour of the respondent no.4 was vacated by the order of the learned 2nd Civil Court (Junior Division) (*supra*) dated the 20th August, 2022. By the said impugned order, the Hon'ble Single Bench had, *inter alia*, held as follows:-

“ Therefore, this Court finds that the plaintiff has failed to prove a prima case. Granting of injunction would cause more prejudice not only to the defendants but also to the benevolent functioning of the institution affecting public at large, than

what withholding of the same would cause to the plaintiff. There is at present a self-appointed Settler (defendant No.1) and an existing Board of Trust, and they can run the administration as per Clauses envisaged under the Deed of Trust dated 26.09.2006. Thus, the balance of convenience and inconvenience is also not in favour of the plaintiff and therefore, there is no question of irreparable loss and injury being caused to the plaintiff which cannot be compensated by way of damages.

Hence it is

Ordered.

That the instant application for temporary injunction is hereby considered and rejected. The ad interim order stands vacated.”

Mr. Bhattacharyya, contends that in view of the fact that the order of ad interim order injunction stood finally vacated after a contested hearing, the administration of the College-in-issue by the Trust should revert back to the defendant no.1 in Title Suit No. 405 of 2016(*supra*), the said Ms. Shabnam.

Learned Senior Counsel further points out that the Hon'ble Single Bench, even after noticing the order vacating the order of ad interim order of injunction (*supra*) ought not to have directed the appellants, to once again apply before the learned Civil Court by way of an appropriate application for appropriate orders. It

is pointed out that since the Hon'ble Single Bench had already vacated the ad interim order of injunction, the necessity of further directing the learned 2nd Civil Court (Junior Division) (*supra*) to issue consequential directions upon the University with regard to change in e-mail ID of the College-in-issue was avoidable since the Writ Court was not powerless on the basis of the admitted facts to issue necessary consequential directions on the University.

On behalf of the respondent no.4, Mr. Sanyal, learned Senior Counsel, appears with Ms. Sarkar, learned Counsel and points out that an appeal against the order of the learned Civil Court dated 20th August, 2022(*supra*) is pending. It is submitted that the College-in-issue can be run on the basis of an existing Board of Trustees and therefore it is upto the Board of Trustees to appoint any person to act as the Secretary of the College-in-issue. The existing Board of Trustees had appointed the respondent no.4 to carry out functions as the Secretary of the College-in-issue.

Mr. Kar, Learned Senior counsel appearing for the respondents/the University-in-issue with Mr. Sengupta, Learned Advocate, points out that the University shall abide by the appropriate directions of the Court. In view of the order of injunction issued by the learned Civil Court, the University had acted

accordingly and now since the injunction order stood vacated, the University is bound to further act in terms of the subsequent order of the learned Civil Court.

Having heard the parties and considering the materials placed, this Court finds sufficient cause in the stand of the appellants that the University is now required to Act in terms of the order dated 5th August, 2022. Accordingly, it is directed that the University shall pass appropriate orders in the light of the order dated 5th of August, 2022 (*supra*) as also any subsequent or further or other order to be passed by the learned Civil Court. Such steps shall be taken by the University not later than a period of a week from this date.

The order of the Hon'ble Single Bench stands accordingly modified.

It is however made clear that this Order shall not adversely affect the steps taken so far in the interests of the students of the College.

MAT 428 of 2023 with **CAN 1 of 2023** stand accordingly **disposed of**.

Since no affidavits are used, other allegations made shall be deemed not to have been admitted.

Parties to act on the communication of the gist of this order.

Parties to also act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

(Supratim Bhattacharya, J.) (Subrata Talukdar, J.)