

Item-25. 10-10-2023

sg Ct. 8

FMA 1976 of 2015
CAN 1 of 2015 (old CAN 2030 of 2015)

Golam Mohammed Khan & Anr.
Versus
The State of West Bengal & 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 20-02-2014. 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 have considered the materials on record and the impugned order. The writ petitioners in the capacity of President and the Vice-President of the Managing Committee of the Kidderpore Academy claimed that the respondent no.6, who is a Group-D employee of the school has been occupying a classroom and at the same time drawing house rent allowance.
5. Before the learned Single Judge, reliance was placed on

Agenda No.3 of the meeting held on 26th March, 2014. The resolution that was adopted reads as follows:

"President stated that Dharani Dhar Mishra is residing in the school premises and drawing House Rent. This points needs discussion. Members participated actively in the discussion. Secretary, Sasti and TR-Sankar Narayan Bandyopadhyay stated that three generations of Dharani Dhar Mishra worked in the institution. All stayed in the school premises and looked after the property. It was unanimously resolved that the matter be overlooked on sympathetic ground."

6. The meeting held on 26th March, 2014 was attended by eleven members. The argument of the said matter was inclusive and any decision taken thereat is of no effect.
7. The learned Single Judge has dismissed the writ petition with the following observations:

"Even if 5 (five) members of the managing committee considered the meeting to have been inconclusive, the majority members did not consider it to be so and the resolution that was taken to close the matter in regard to occupation of the school premises by the respondent no.6 for his accommodation, stands. That apart, it appears that there is a dispute between two factions of the managing committee. No public law element is involved in this writ petition warranting interference. If at all the petitioners are aggrieved by the accommodation provided to the respondent no.6 in the school premises, they shall be at liberty to take further action in accordance with law including institution of a suit for ouster of the respondent no.6. Writ remedy, on facts and circumstances, is not the proper remedy."

8. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge.

9. The appeal fails. The appeal and the connected application are, accordingly, dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)