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27.03.
2023
Ct. No.07

WPA 11288 of 2017

**Secretary, Mahesh Shri Ramkrishna Ashram
Vs
The State of W. B. & Ors.**

**Mr. Rabilal Maitra, Sr. Advocate
Mr. Kanai Lal Samanta
Mr. Rajit Lal Maitra
.....For the Petitioner
Mr. Santanu Mitra
.....For the Board
Mr. Tapan Kumar Mukherjee, Sr. Advocate
Mr. Pranab Halder
.....For the State**

The petitioner has challenged the constitution of the Managing Committee of the schools run by Mahesh Shri Ramkrishna Ashram which was intimated to the Headmaster of the school vide a communication dated 1st March, 2017.

The concerned authority approved special constitution in respect of the schools run by Mahesh Shri Ramkrishna Ashram vide a letter dated 16.09.2003. The said school was subsequently converted to recognized Government sponsored Secondary School. Thereafter the said school was again reverted to the non-Government aided school recognized by the West Bengal Board of Secondary Education as the schools were enjoying special constitution since 16.9.2003. The school thereafter applied for approval of the special constitution of the

Managing Committee. The Secretary, West Bengal Board of Secondary Education by a letter dated March 01, 2017 communicated to the Headmaster of the said school that the Executive Committee in its meeting held on June 26, 2008 approved the Managing Committee of the said school under special constitution and the structure of the Managing Committee under Special Constitution was indicated therein. Such structure of the Managing Committee under special constitution is under challenge in this writ petition.

Mr. Maitra, learned senior counsel representing the writ petitioner submits that the school was initially granted the status of recognized non-Government Institution and the concerned authority approved the special constitution in favour of the said school. However, after the same was again converted from the Government sponsored Institution to the category of recognized non-Government Institution, the school is entitled to the special constitution which was accorded in its favour at the earlier stage but the authorities, by the impugned order, did not allow the said school its earlier status of the Managing Committee under special constitution.

Mr. Mitra, learned senior counsel representing the West Bengal Board of Secondary

Education (for short “the Board”) refers to the document annexed at page 35 of the writ petition and submits that the concerned authority approved the Managing Committee under special constitution as per the relevant Rules.

Mr. Mukherjee, learned senior counsel representing the State also submits that the school was granted special constitution and, therefore, no interference is called for by this court sitting under Article 226 of the Constitution of India.

In reply Mr. Maitra, learned senior counsel representing the petitioner submits that the members under guardian category, the representatives from the teaching staff as well as the non-teaching staff, as per the provisions of the Trust Deed governing such school has to be nominated by the trustees of the Trust running the said schools instead of being elected from amongst the respective categories. He, however, in his usual fairness submits that no representation on such lines has been submitted by the school. He submits that in similar Institutions the concerned authorities have allowed the members of the representative categories as provided under Rule 6(III) and (IV) to be nominated by the Trustees of the relevant Trust but no representation citing such instances was made before the respondent authorities. Therefore, he prays that liberty may be

granted to the writ petitioner to submit a comprehensive representation before the concerned respondents.

Heard the learned advocates for the parties and perused the materials placed.

It is not in dispute that at present the Institution is a recognized non-Government aided Institution. Therefore, the constitution of the Managing Committee of such Institution is to be made in terms of Rule 6 of the West Bengal Management of Recognized Non-Government Institutions (Aided and Unaided) Rules, 1969 (for short “the Rules 1969”).

Rule 8 (3) of the said Rules starts with a non-obstante clause and empowers the Executive Committee to approve on the application of any Institution or class of Institutions of the special constitution of a Committee in favour of such Institution or class of Institutions and in approving the special constitution of a Committee, the Executive Committee shall pay due regard to the recommendations of the Director, if any. It is also provided therein that while granting special constitution in favour of an Institution or a class of Institutions, the Executive Committee shall ensure that representation of the members of the teaching and the non-teaching staff, guardians and the

member nominated by the Director or an officer authorized by him in this behalf, is made according to clause (iii), clause (v) and clause (vi) of Rule 6.

Clause (iii) of Rule 6 deals with the manner of election or nomination in the manner laid down in Sub-Rule (2) of Rule 6(A).

Clause (v) of Rule 6 provides for election of the requisite number of members of the teaching-staff and non-teaching staff to be elected in the manner prescribed in clause (i) of Sub-Rule (4) of Rule 6 (A).

On perusal of the constitution of the Managing Committee approved by the Executive Committee of the Board under special constitution it appears that not exceeding 3 members from the Trust Body/society/any other were allowed.

However, in so far as the representation of the guardian category is concerned, it was mentioned that the requisite number of members from the guardian category are to be elected. It further appears from the said constitution of the Managing Committee that the representations from the teaching staff and non-teaching staff are also to be elected.

Mahesh Sri Ramkrishna Ashram Vidyalaya was initially enjoying a Special Constitution in terms of the approval received from the Board vide Memo dated 16.9.03. Subsequently in 2013 the said institution was converted from non-government aided

school to government sponsored school recognized by the Board. Thereafter by an order dated 11.12.2015 the status of the said institution was reverted from Government sponsored school to non-government aided school recognized by Board.

After the status of the school was again reverted to non-recognized aided school, the Secretary advised the Board to grant special constitution of the Managing Committee of the two schools namely Mahesh Shri Ramkrishna Ashram Vidyalaya (H.S.) and Mahesh Shri Ramakrishna Vivekananda Vidyalaya.

The principal grievance of the petitioner is that the members under the guardians category, teaching and non-teaching staff category were directed to be elected instead of being nominated or selected by the trustees of the Trust. However, it appears from the Memo dated 16.9.03 granting approval of special constitution, that in addition to the members nominated by the Ashram, the members from the teaching staff, non-teaching staff, guardian category and departmental nominee shall be as per the relevant Rules. Such Memo is also not under challenge in this writ petition. Upon going through the relevant Rules of the 1969 Rules this Court is of the considered view that the structure of the Managing Committee as indicated in the enclosure to

the letter dated 1.3.2017 is in terms of the 1969 Rules.

Therefore, this court is not inclined to interfere with the structure of the special constitution indicated by the concerned authority in the letter dated 1.3.2017.

However, since it has been submitted by Mr. Maitra, learned senior counsel for the petitioner that in similar other institutions the concerned authority allowed the members from the guardian category as well as teaching staff and non-teaching staff to be nominated by the trustees of the relevant Trust governing such similar Institutions, this court is of the considered view that a liberty may be granted to the petitioner to make a representation giving the instances of the Institutions where the concerned authorities allowed the members to be nominated under such category by the trustees.

For the reasons as aforesaid, this writ petition is disposed of without interfering with the structure of the special constitution of the Managing Committee indicated in the enclosure to the letter dated 1.3.2017 and by giving liberty to the petitioner to make a comprehensive representation in the manner as submitted by the learned advocate for the petitioner. If such representation is made before the Secretary, School Education Department, the Secretary shall

decide the prayer of the petitioner Institution as contained in the representation, if any, made by such Institution and to dispose of the same as expeditiously as possible by passing a reasoned order.

There shall be, however, no order as to costs.

Urgent photostat certified copy, if applied for, be given to the parties after completion of all requisite formalities.

(Hiranmay Bhattacharyya, J.)