

31 27.9.2023

Ct-08

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MAT 1495 of 2023

with
I.A No. CAN 1 of 2023

**Mani Shankar Saha @ Mani Sankar Saha
Vs.**

The State of West Bengal & Ors.

Mr. Barun Samanta

... For the Appellant

Mr. K.M. Hossain

... For the Respondent no. 5

Mr. Biswasbrata Basu Mallick, Ld AGP

... For the State

1. We have heard the learned counsel appearing for the parties.

2. The appeal is arising out of an order passed by the learned Single Judge in a writ petition challenging the decision to nominate the respondent no. 5 to hold office as the President of the newly constituted Managing Committee of the school for a period of three years.

3. Briefly stated that Sk. Yusuf was the President of the Managing Committee of the Bhaluka R.M.M.M. Vidyapity (H.S), District-Malda. Before completion of his tenure in exercise of power under Rule 10 of the Management of Sponsored Institutions (Secondary) Rules, 1972 his nomination was recalled as President of the Managing Committee and Mani Shankar Saha was nominated as President of the Managing Committee

of the school under Rule 5(1) of the said Rules.

3. The writ petitioner contends that since he was appointed under Rule 5 of the Management of Sponsored Institutions (Secondary) Rules, 1972, his tenure is of three years and during his tenure another person cannot be appointed as President.

4. It is an admitted position that when the President was recalled there was a need for appointment of a President for the unexpired period and it is quite evident that the writ petitioner was appointed for the said unexpired portion of the term of the said office. In any event, the authority has right to recall a President as it was done in the earlier case on 12th October, 2022 and a fresh person can be appointed as President either to continue for full term or for the unexpired portion of the term of the said office and it is also clear from Rule 9 of the said Rules.

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

6. The appeal fails.

7. In view of the aforesaid the appeal being MAT 1495 of 2023 stands dismissed.

8. In view of dismissal of the appeal nothing remains to be decided in the application for Stay

being CAN 1 of 2023 and the same is accordingly dismissed.

9. However, there shall be no order as to costs.

10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

