

WPA 20270 OF 2022

North Malda Teachers' Education
College & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Anindya Bose
Mr. Diptendu Mondal
Mr. Mridul Biswas.

....For the Petitioners

Mr. Bhaskar Prosad Banerjee

....For the Respondent
No. 6/ University

This is the second round of writ litigation.

The first petitioner is a college. The second petitioner is a trustee of a Trust under the name and style of '**North Malda Education & Welfare Trust**'. **Annexure-P1 at page 25** to the writ petition is the **Trust Deed**.

The respondent nos. 9 to 17 are the private respondents, some of them are the present trustees and some of them are removed trustees, as submitted by Mr. Anindya Bose, learned counsel for the petitioners.

The claim of the petitioners was that, the private respondents are mismanaging the funds and affairs of the Trust and the first petitioner, college. With such allegations, the first round of writ petition was filed being **WPA 2565 of 2021**. A coordinate Bench by its order dated **March 8, 2021** had disposed of the said first writ

petition directing the respondent no.4 to consider the grievance of the petitioner. From the said order dated March 8, 2021 the private respondents preferred an appeal and the petitioners had preferred a cross-appeal. By an order dated **July 5, 2022, Annexure P14 at page 140**, the **appeal was dismissed** with certain modifications. The cross appeal was also disposed of.

The respondent no.4 then decided the issue through the impugned order dated **August 16, 2022, Annexure - P16 at page 170 to the writ petition**. The petitioners contended that, while deciding the issue, the respondent no.4 had not granted an opportunity of hearing to the petitioners and passed the said impugned order dated **August 16, 2022**.

Drawing attention to **Annexure-P17 at page 171** Mr. Anindya Bose, learned counsel submitted that, a civil suit being **Suit No.33 of 2022** had also been instituted before the learned **Civil Judge, Junior Division, Second Court at Malda** in which the petitioners herein were the first and second plaintiffs respectively along with other co-plaintiffs. The private respondents herein were also impleaded as defendants.

Learned counsel for the petitioners further submitted that, since the order impugned in this writ petition being **dated August 16, 2022, Annexure P-16 at page 170 to the writ petition** was a result of direction passed by a coordinate Bench and the Hon'ble

Division Bench in the previous writ proceeding, the same is amenable to the writ jurisdiction of this Court and, accordingly, had been challenged.

Mr. Bhaskar Prosad Banerjee, learned counsel appeared for the respondent nos. 5 and 6.

After considering the submissions made on behalf of the appearing parties and on perusal of materials on record and from a plain and meaningful reading of the plaint, ***Annexure-P17 at page 171 to the writ petition,*** it appeared to this Court that, it was really a dispute between the two rival groups of trustees of the Trust. The principal allegation was mismanagement of the Trust affairs in various modes and manners. A substantive civil suit is pending before the jurisdictional civil court on the selfsame issues.

Considering the case made out in the writ petition and the reliefs claimed thereunder, this Court is of the view that, the nature of disputes sought to be canvassed through this writ petition, though the order impugned was the order passed by the respondent no.4 dated August 16, 2021, are disputes *inter se* trustees, such disputes being civil disputes cannot be adjudicated upon by this Court exercising its high prerogative writ jurisdiction. More so, a substantive civil suit is pending.

It is true that through the instant writ petition the order of the respondent no.4 was challenged. However, the principal grievances arising whereof the said

impugned order was passed are also sub-judice in a substantive civil suit pending before the jurisdictional civil court.

For those reasons, this Court is of the firm view that, this writ petition is not maintainable and the petitioners will be at liberty to take appropriate recourse in law available to them, to challenge the said impugned order dated August 16, 2022 in the said pending civil suit being **Suit No.33 of 2022** as narrated above, after compliance of all the procedures and strictly in accordance with law.

Resultantly, this writ petition, **WPA 20270 of 2022** stands dismissed, without any order as to costs.

It is made clear that this Court had not gone into the claim of the petitioners in this writ petition in any manner whatsoever and the petitioner shall be at liberty to challenge the said impugned order strictly in accordance with law in the said pending civil suit.

(Aniruddha Roy, J.)