

Ct. 08
Item No.16
12.12.2023
(**Suvendu**)

MAT 1708 of 2023
With
CAN 1 of 2023
CAN 2 of 2023
CAN 3 of 2023

Adhir Kumar Chatterjee & Anr.
Vs.
Soma Bairagya (Chakraborty) & Ors.

Mr. Ujjal Ray
Mr. Sk. Abdur Rahim
..... for the appellant

Mr. Jayanta Samanta
Mr. Rezaul Hossain
....for the State

Mr. Arjun Ray Mukherjee
Ms. Saheli Mukherjee
....for the respondent no. 12

Mr. Subir Kumar Bhattacharya
....for the respondent no. 1

1. The petitioner is the erstwhile headmaster of the school. Admittedly he was the headmaster between the year 2010 and 2016.
2. The petitioner is aggrieved by the order since on the basis of the impugned judgment an FIR has been lodged in

which he was shown as one of the accused persons.

3. It appears from the impugned judgment that the answering respondents have clearly stated in their affidavit that though a panel was prepared on 7th July, 2009, the school authority did not submit the same to the District Project Officer for necessary approval in time. Ultimately, the headmaster of the school vide a letter dated 20th September, 2013 forwarded the same panel prepared on 7th July, 2009, but adopted anew by the Managing Committee, to the District Project Officer, Purba Bardhaman for approval. After receiving the letter dated 20th September, 2013 from the headmaster of the school, the answering respondent vide memo dated 24th September, 2013 informed the headmaster of the school that there was no possibility to engage para-teacher in the school since the school authority submitted the panel belatedly and after issuance of the Government memorandum dated 20th April, 2010. This was the contention of the

respondents in support of dismissal of the writ petition.

4. Mr. Mukherjee, learned counsel appearing on behalf of the respondent no. 12 has fairly submitted before us that on 27th September, 2023 this Bench by its judgment dismissed the appeal filed by the State against the said judgment passed by Justice Rabindranath Samanta by affirming the same.
5. In disposing of the matter, the learned Single Judge has passed the following directions upon the police authorities :-

“As to the alleged criminal acts perpetrated by the Managing Committee of the school, the Superintendent of Police, Purba Bardhaman is directed to direct the Officer-in-Charge of the concerned Police Station to register an FIR *suo motu* against the persons involved in allegedly preparing a forged panel with an intent to cheat the petitioner as well as the concerned state authority and using the same as genuine one immediately after receiving a copy of this judgement and order. The delay, if any, made in registering the FIR, shall stand condoned.”

6. Hence, we are of the view that the present appellant was not required to be heard by the learned Single Judge before passing the impugned order. There was no direction to include the name of the applicant in the FIR. It was a direction upon the police authorities to hold an enquiry with regard to the charge of corruption and it is not the requirement of law that in all cases of corruption there is any mandatory requirement of any preliminary enquiry. However, it depends on the nature of the complaint and it is for the investigating authority to decide as to whether any preliminary enquiry is required or not. The matter is at the investigation stage. Charge-sheet has not been filed. It is always open to the appellant to produce documents before the investigating agency in course of investigation to show absence of any mens rea on his part as it is well settled that merely because a person is named in the FIR his guilt is not conclusively established. The investigating agency may not file any charge-sheet if his involvement is not established. Hence, It

is premature at this stage to make any comment of his involvement in the alleged offence. The investigating agency shall conclude the investigation as expeditiously as possible.

7. The apprehension expressed by the petitioner is premature and misplaced at this stage.
8. In such circumstances, we do not find any reason to interfere with the judgment and order passed by the learned Single Judge.
9. The petitioner shall cooperate with the investigation and shall produce all relevant documents to the investigating officer for consideration.
10. The appeal and all connected applications are accordingly disposed of.
11. Urgent photostat certified copy of this order, if applied for be given to the parties on usual undertakings.

(Uday Kumar, J.)

(Soumen Sen, J.)

