

25.09.2023
Item No.13
gd/ssd

WPA(P)/512/2023
ALOKE KUMAR MONDAL AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

Mr. Uttam Kumar Bhattacharyya
..for the Petitioners.

Mr. Saikat Chatterjee,
Ms. Manali Ali
..for the State.

Ms. Koyeli Bhattacharyya
..for WBBSE.

Mr. Piyush Chaturvedi,
Mr. Tarun Kr. Das,
Mr. Dilip Kr. Shyamal
..for the Respondent No.10.

1. By way of public interest litigation the petitioners allege that the 10th respondent has manipulated his date of birth and has committed other delinquencies.

2. Identical complaint was made against the 10th respondent by another person and a criminal case was registered and the matter travelled before this court and by order dated 23rd March, 2023 in IA No. CRAN 3 of 2023 in CRR 1915 of 2022 the court quashed the criminal proceedings.

3. In the said order the following finding has been rendered by the court with regard to the correct date of birth of the 10th respondent, which is quoted hereunder:

“10. The petitioner has submitted his certificate issued by the West Bengal Board of Secondary Education. In the school leaving certificate issued by the West Bengal Board of Secondary Education, date of birth of the petitioner is recorded as on 5th November, 1966.

11. The Investigating Officer could not collect any contrary document to show that the petitioner was born in 1963. It is no longer *res integra* that entry of date of birth in the Matriculation Certificate is relevant to determine the age of a person. A Matriculation Certificate specifying the date of birth of a student is an important document admissible under Section 35 of the Indian Evidence Act. Certificate issued by the West Bengal Board of Secondary Education the date of birth is an entry from the public record or official book, register or record. In the instant case the issue relating to date of birth of the petitioner is the only fact in issue or a relevant fact. The record of date of birth is maintained in the Board of Secondary Education of every candidate appearing in Madhyamik Examination by a public servant in discharge of his official duties. Thus, an entry relating to date of birth made in the Matriculation Certificate is relevant and admissible under Section 35 of the Act.”

4. In the light of the aforementioned decision, the petitioners cannot by way of public interest litigation re-agitate the issue as long as the finding rendered by the court in another proceeding concerning the 10th respondent though at the behest of another complainant and the allegation having been found to be incorrect, the court cannot on the same issue take up the matter in a public interest litigation. The other allegation made by the petitioners is with regard to the alleged misappropriation of the items which are supplied for the Mid-Day Meal Scheme.

5. The learned advocate for the 10th respondent submitted that the accounts have been audited and there is no adverse remark recorded by the authority against the 10th respondent.

6. Thus, taking note of the finding rendered by the learned Single Bench in this court in the aforementioned order, no direction can be issued in this writ petition as sought for by the petitioners.

7. However, we find that the District Inspector of Schools (Secondary Education), Purba Medinipur has constituted a Committee vide office order dated 14.06.2023 and if the said enquiry has not been completed as of now, let the enquiry be completed and the matter to be taken to the logical conclusion.

8. With the above observation, the writ petition stands dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)