

06.10.2023
SL No.32
Court No.8
(gc)

FMA 4517 of 2014
CAN 1 of 2014 (Old No: CAN 9090 of 2014)

Mihir Sankar Manna
Vs.
The State of West Bengal & Ors.

1. The parties are not represented nor any accommodation is prayed for on behalf of the parties.
2. The appeal had appeared in the warning list of cases on and from 19th September, 2023 with a clear indication that the said matter shall be transferred to the Regular Bench today. The appeal is listed today in the main cause list. All the parties have sufficient notice about the listing of the matter before the Regular Bench on and from 6th October, 2023.
3. The appeal was filed on 20th August, 2014. The record shows that no attempt has been made to move this appeal after it was filed. No step has been taken to serve notice and prepare paper books. It clearly shows that the appellant is not interested to proceed with the appeal and has virtually abandoned the appeal. However, we consider the order under appeal.

4. The appeal is arising out of an order dated 11th July, 2014 by which the earlier interim order passed in favour of the writ petitioner was recalled. The reason being:-

“Considering the observations made by the Right to Education Protection Authority in its order dated April 17, 2013 that the petitioner had acted in contravention of the provisions of Section 17 of the Right of Children to Free and Compulsory Education Act, 2009 in subject to some students suffered physical punishment and obtaining of transfer certificate by a student from the school concerned in apprehension of further physical assault, I am of the prima facie opinion that the balance of convenience and/or inconvenience is in favour of not allowing the petitioner to discharge his function as an additional para teacher of the above school. Further, in case of his success in the writ application, he may be reinstated with full back wages.

The interim order already passed in the matter is vacated. However, the impugned order shall abide by the result of this case.”

5. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge.
6. Accordingly, the appeal and the application stand dismissed.

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

(Uday Kumar, J.)

(Soumen Sen, J.)