

Court No. 17

RVW 256 of 2023

17.10.2023

(AD 3)

(S. Banerjee)

Md. Danish Farooqui

Vs.

State of West Bengal & Ors.

with

CAN 1 of 2023

Mr. Biswaroop Bhattacharya

Mr. Sankha Biswas

Mr. Tapajit Das

Mr. Ankan Das

Mr. Abhijit Roychowdhury

... for the petitioner

Mr. Sirsanya Bandyopadhyay

Mr. Arka Kumar Nag

... for the State

Mr. Kishore Datta, Sr. Advocate

Mr. Subhrangsu Panda

Ms. Mithu Singha Mahapatra

Ms. Haritri Roy

... for the College Service Commission

Mr. Sourav Kumar Mukherjee

Mr. Falguni Jana

Ms. Sahana Pal

... for the respondent no. 25

Mr. Arka Kumar Nag

... the Special Officer

This review application has been filed by the petitioner in WPA 24026 of 2023. The writ application was dismissed on 12.10.2023 on the ground that the petitioner collected Rs. 2.2 lacs from the students of the law college under the pretext of college excursion and he failed to show any authorization that was given to him and he also said that there was no written

authorization. The review has been filed on certain grounds two of which are as follows:

i) The applicant after said judgment and order was passed discovered/obtained certain documents which was although within the custody of the applicant even before the date of dismissal of the writ application, could not produce readily before the Hon'ble Court as the applicant was not carrying such documents with him on the date of dismissal, i.e., 12th October, 2023. In connection with the application filed along with the memo of review, it is found that there was one letter written by someone in 2022 excursion who conducted the annual excursion and verbally authorized by the Principal to collect money from the students. To this effect one email has been annexed to one supplementary affidavit on 17th October, 2023.

ii) Apart from that from the second report of the Special Officer appointed by this court, it is found from paragraph 6 that the petitioner filed one complaint with the Charu Market Police Station which was also intimated to the accountant of the college as the petitioner was authorized to collect the subscriptions from the college students for the annual educational tour

2023. This report of the Special Officer has been signed by said Amit Chakraborty, i.e., the Teacher-in-Charge, Students Activities.

Therefore, I am satisfied that the petitioner could not produce the documents which he had in his possession on the date when the writ application was dismissed and in this regard ground IV of the review application that even after exercise of due diligence, the applicant could not produce it at the time when the order was passed on 12th October, 2023 and on account of error apparent on the face of the said judgement and order and for other sufficient reasons the applicant wanted to obtain a review.

Though the applicant has written some error apparent on the face of record, this court does not accept the same because it was the duty of the applicant to show how he was authorized. Now at least there is one clue from which one tacit or implicit authorisation is found as appears from a statement of the Teacher-in-Charge, Students Activities that the petitioner was authorized to collect money.

The notice inviting quotation for organizing educational excursion of 2023 has also been annexed to the application in connection with the review application, being CAN 1 of 2023 that the notice was issued by the Principal.

Apart from the above, the petitioner has shown the tender floated by the college for such excursion for the students and an amount of Rs. 50,000/- was paid to the travel agent who has been given the responsibility of such excursion. The copy of some railway tickets showing date of journey for the excursion on 07.11.2023 from Howrah to Maharashtra by Azad Hind Express, have been given to satisfy this court that the money collected by the petitioner has not been misappropriated. Further it is submitted that when the date is fixed for students excursion, if there is any wrong arrangement then the students shall have every authority to make a complaint against the organizer and also the petitioner.

Mr. Sourav Kumar Mukherjee, learned advocate for the respondent no. 25, the Principal, has submitted that the Principal only authorized the Teacher-in-Charge, Students Activities to collect the money but she does not know how the Teacher-in-Charge gave the responsibility or sub-delegated the responsibility to collect the money from the petitioner. However, he does not produce any document to show that the Principal really gave any such power in writing to the Principal.

Learned advocate for the petitioner in this respect has submitted that even if it is done by the Principal, that was illegal because there was no Governing Body

decision in this regard and this gives rise to one indiscipline in the affair of the college for which disciplinary proceeding may be initiated against the Principal.

However, I am not entering into this question as of now.

Mr. Mukherjee has further submitted that the petitioner collected the money and some amount has been paid from the petitioner's own account which is questionable.

In reply, learned advocate for the petitioner has submitted that it is a matter of payment not a matter of defalcating the amount as appears from the payment document as has been annexed to the application (CAN 1 of 2023) in connection with the review application. He has further submitted that in today's world digitalized payment is to be made and if it is to be made then it is to be done from some person's account. For payment of money to somebody nothing is proved or known substantially that the amount of money was defalcated, in fact it was paid to some persons.

I have considered the objection raised by the Principal. After considering the case including the grounds and the documents annexed to the review application, I allow the review application and I recall

the order of dismissal of the writ application. The writ application should be placed in its original file and number with all interim orders that were passed in the said writ application. However, though I have heard the matter on merits for several occasions and applied my mind not only to the writ application but also to the review application, part heard is cancelled.

However, the savings of the interim order passed by this court should be read as it were prevailing on the date when the writ application was dismissed, i.e., 12.10.2023.

The cost imposed upon the petitioner is recalled on review and also the direction given to the police authority for investigating the matter against the petitioner is also recalled on review.

(Abhijit Gangopadhyay, J.)