

WPA 29095 OF 2022

Tapobrata Basu

Vs.

The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
Ms. Anita Shaw.

....For Petitioner

Mr. Sudipto Panda
Ms. Munmun Tewary.

....For the State

Mr. Sourav Mitra
Mr. Arindam Ghosh
Ms. Tapati Samanta.

....For the Respondent
No.5

Mr. Anjan Bhattacharya, learned counsel appearing for the petitioner sought for leave to file two supplementary affidavits affirmed on January 13, 2023 and February 1, 2023. According to him, for complete adjudication of this writ petition the documents disclosed in the said two supplementary affidavits are necessarily to be brought on record.

Copies of the supplementary affidavits have already been served upon the added respondent no.5 and respondent nos. 1 to 4.

The petitioner claimed to be the **present Head Master at Santragachi Kedarnath Institution (H.S.), Howrah**. The **added respondent no.5** claimed to have been nominated for the **President of the Managing Committee** of the relevant school with effect from

November 22, 2022 at page 22 to the writ petition.

Relying upon the documents disclosed in the supplementary affidavits, the writ petitioner contended that after **2017** there was no managing committee constituted or existed till **November 9, 2022**. The petitioner, also contended that, according to him there is no managing committee in existence at present.

Mr. Anjan Bhattacharya, learned counsel appearing for the petitioner submitted that the writ petitioner had challenged the nomination of the private respondent no.5 as the President of the Managing Committee of the relevant school on various grounds of illegality. He submitted that there was a serious allegation of **defalcation of funds** made the petitioner against the added respondent no.5 regarding funds allotted for **mid-day meal** programme. The petitioner lodged police complaint dated **January 13, 2023, Annexure – P10 at page 6 to the second supplementary affidavit**. The petitioner had also received a communication dated **January 24, 2023** from the office of the District Inspector of Schools inviting the petitioner to join in a meeting for formation of managing committee of the relevant school which was scheduled on **January 31, 2023**. The learned counsel for the petitioner has confirmed this Court that no such meeting had taken place.

In view of the above, challenging the nomination of the added respondent no.5 as the President of the Managing Committee of the relevant school and the further development of his appointment, as such, the instant writ petition was filed by the petitioner. Amongst other prayers ***prayer (d)*** to the writ petition is quoted below :

“d) A declaration declaring that the Management of Sponsored Institution (Secondary) Rule 1972 is unconstitutional as ultra vires to the Right of Children to Free and Compulsory Education Act, 2009 and not in par with the Article 254 of the constitution of India;”

Mr. Anjan Bhattacharya, learned counsel appearing for the petitioner on the basis of his oral prayer submitted that the said ***prayer (d) to the writ petition shall not be pressed*** for and the petitioner shall relinquish such relief from this writ petition.

Mr. Bhattacharya also submitted that in the facts of this case a detailed inquiry regarding the affairs of the school and the nomination of the added respondent no.5 in the light of the allegations made in the writ petition and the supplementary affidavits along with the documents enclosed therewith are required to be made.

Mr. Bhattacharya further submitted that his client had already initiated a proceeding before the jurisdictional criminal court under ***Section 156(3) of the Code of Criminal Procedure*** when the jurisdictional criminal court had directed the jurisdictional police

station to lodge an **FIR** and **proceed in accordance with law.**

Mr. Sourav Mitra, learned counsel appearing for the added respondent no.5 submitted that there was no illegality at all in nominating his client for the post of the President of the Managing Committee of the relevant school. It was a fact that that the **respondent no.5 is the retired Teacher-in-Charge** of the relevant school but this would create no bar for the added respondent no.5 to be nominated and appointed as the President of the Managing Committee for the best protection of the interest of the school and the students.

Mr. Mitra further submitted that several representations were also submitted by the diverse teaching and non-teaching staff of the relevant school alleging diverse mis-management of the school funds against the petitioner before the jurisdictional District Inspector of Schools.

Mr. Sudipto Panda, learned counsel appearing for the respondent nos. 1 to 3 submitted that the jurisdictional District Inspector of Schools had received several complaints from various quarters of the staff of the school alleging diverse allegations and mis-appropriation of school funds against the petitioner. The jurisdictional District Inspector of School had caused the necessary inquiry and ultimately sent the report to the

President of the West Bengal Board of Secondary Education.

Mr. Panda further confirmed this Court that an **administrator** had already been appointed and is continuing since 2017 over and in respect of the affairs of the school and has been carrying out the job successfully.

After considering the rival submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that, ***a detailed fact finding inquiry is required to be made relating to the running of the affairs of the relevant school since 2017 after the expiry of the last managing committee.***

This Court is also of the view that ***before finalization and appointment of the added respondent no.5 the allegations made against him are also required to be investigated in detail*** though he had been nominated for the post of President of the Managing Committee of the relevant school. To cause such a detailed fact finding inquiry, is definitely not the job of the Writ Court.

In view of the above, to subserve justice, the respondent no.3 is directed to cause a detailed inquiry on the issue as indicated above in the light of the case made out in the writ petition and the supplementary affidavits along with the documents appended thereto and also in

the light of the submissions made on behalf of the parties as recorded hereinabove. For such purpose, the **respondent no.3** shall issue at least a seven days' prior hearing notice to the petitioner, the added respondent no.5, jurisdictional District Inspector of Schools and the existing administrator of the school and after giving them an opportunity of hearing, shall conduct the necessary inquiry and ultimately will come to its logical conclusion by passing a reasoned order in accordance with law. Such inquiry, it is needless to be mentioned, should be exhaustive since the interest of the school and its students are involved.

The entire exercise as directed above shall be carried out and completed by the respondent no.3 within a period of **twelve weeks** from the date of communication of this order. The ***jurisdictional District Inspector of Schools is directed to render all its cooperation before the respondent no.3 in every respect.***

The parties will be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3.

For the time being the **administrator**, already appointed on the school by the respondent no.3, shall continue to act taking into consideration of the best interest of the school strictly in accordance with law **till one week** after the reasoned order is communicated to

the petitioner, the administrator, the respondent no.5 and the jurisdictional District Inspector of Schools.

The nomination of the added respondent no.5 and the consequential steps for his confirmation, appointment and working shall abide by the reasoned decision to be taken by the respondent no.3 as directed above.

In the event, the reasoned decision of the respondent no.3 shall go against the formation of the alleged new managing committee or the added respondent no.5, then the administrator shall continue to run the affairs of the school in accordance with law until the new managing committee is validly constituted and starts functioning strictly in accordance with law.

It is made clear that this Court has not gone into the merits of the claim of the writ petitioner in any manner and also the submissions made on behalf of the respondents as recorded above.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms the writ petition, **WPA 29095 of 2022** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)