

11.12.2023
Sl. No.49
akd

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

M. A. T. 19 of 2023

*[The Headmistress, Nilnalini Bidyamandir (HS). -Vs- Sri Partha Sarathi Das
& Ors.]*

Mr. Subham Ghosh
Mr. Mayank Roy
Mr. Sourav Lohani
... .. for the appellant

Mr. Deborshi Dhar
Ms. Oshmita Mukherjee
... .. for the respondent no.1/
writ petitioner

Mr. Subir Kumar Saha
Mr. Momenur Rahman
Mr. Bikash Singha
... .. for the State

1. Appellant has assailed order dated 30.01.2023 passed by the learned Single Judge directing the appellant herein as well as the respondent no.6 i.e. the President of the Managing Committee, Nilnalini Bidyamandir (HS) to deposit a bank draft amounting to Rs.6,00,000/- in a nationalised bank in the name of the respondent no.1/writ petitioner herein as a condition precedent for filing affidavit-in-opposition to the writ petition.
2. Learned Advocate for the appellant submits dispute arose relating to revision of pension of the respondent no.1/writ petitioner. Though the District Inspector of Schools (SE), Siliguri had vide memo

dated 22.05.2020 directed revision of pension, it was subsequently detected that the respondent no.1/writ petitioner was involved in a criminal case. As a result, his pension could not be revised in absence of fresh direction by District Inspector of Schools (SE), Siliguri.

3. Learned Advocate for the respondent no.1/writ petitioner contends that the criminal case has ended in an order of acquittal.
4. We have considered the rival submissions at the Bar. Learned Single Judge took note of the fact that the criminal case referred to by the appellant in course of arguments had ended in an order of acquittal. Though an application for Special Leave to Appeal had been preferred, the appellant is unable to place on record any material to show whether the appeal has been admitted or not. The aforesaid state of affairs prima facie shows the appellants had without justifiable cause failed to take steps in the matter of revising pension of the respondent no.1/writ petitioner.
5. Be that as it may the learned Single Judge gave an opportunity to the appellant to contest the case by filing affidavits after securing the amount payable to the respondent no.1/writ petitioner as outstanding pension i.e. a sum of Rs.6,00,000/-.

6. Order passed by the learned Single Judge is an equitable one and cannot be said to be unduly harsh or unjustified.
7. Hence, we do not wish to interfere with the impugned order in the intra-court appeal.
8. The appeal is accordingly, dismissed.
9. There shall be however, no order as to costs.
10. Let photostat certified copy of the order, if applied for, be given to the parties on usual undertaking.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)