

07 **19.07.**
2024

Ct. No. 08

MAT 26 of 2024
IA No. CAN 1 of 2024
IA No. CAN 2 of 2024

ab

Tarapada Shit
Headmaster, Radhaballavpur
]B.C.B. Vidyapith another
Vs.
Uttam Bhakta and others.

Mr. Sakti Pada Jana.

... for the appellants.

Mr. Srijib Chakraborty,

Ms. Rupsa Sreemani.

... for the writ petitioner/respondent no. 1.

Mr. Dwarika Nath Mukherjee,

Mr. Janardan Mandal.

... for the State.

Ms. Koyeli Bhattacharyya,

Mr. Bibek Dutta.

... for the WBBSE.

Mr. Sunit Kumar Roy.

... for the SSC.

The Counsel for the appellants submits that though the direction was passed upon the appellants to file affidavit-in-reply to the opposition filed by the respondents in the instant appeal, but after perusing the stand disclosed in the opposition, the appellants have realized that the order of transfer issued by the authorities on the basis of an application filed by the appellants is per se illegal and, therefore, he does not intend to pursue the instant appeal any longer.

A writ petition at the behest of the writ petitioner/respondent no. 1 assailing the order of transfer issued in favour of the appellants was disposed of by the Single Bench holding that such order of transfer is de hors the provisions contained in the Rules, 2015 and the authorities cannot act merely on the *ipsi dixit* of the applications or information disclosed therein but should take conscious decision within four corners of the statutory provisions. Consequent upon the setting aside the order of transfer, the Single Bench further

observed that the appellant no. 1, who has already joined the transferred post, shall cease to have any authority to act as a Headmaster of a transferred school.

At the time of admission of the instant appeal and taking into account the last observation as quoted herein above, the earlier Co-ordinate Division Bench stayed the operation of the said order as the school or its pupils cannot suffer if the Headmaster cannot function or exert his authority in such capacity.

Since the appellants did not intend to proceed with the instant appeal, as a corollary effect, the interim order cannot remain and to be vacated, which, in fact, is done.

The instant appeal is dismissed as 'not pressed'.

The interim order passed in the instant appeal stands vacated.

Since the appellant no. 1 has to be reverted to the post of Headmaster in the school, which he hold prior to the date of the order of transfer, the concerned authorities are directed to take all consequential steps as required in law so that the appellant no. 1 may not suffer for the wrong committed by the authorities.

The entire exercise has to be completed within two weeks from the date of communication of this order.

For the interregnum period of two weeks, the appellant no. 1 shall discharge his duties as Headmaster of the transferred school for the interest of the children and the administration of the school.

In view of the dismissal of the appeal itself, the connected applications have become infructuous and the same are also dismissed.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

