

29.11.2024
Ct. No. 2
Sl. No. 5
Moumita

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**CONTEMPT
CPAN 223 of 2024**

**The Managing Committee and Ors.
Vs.
Arup Sengupta Commissioner of School Education
and Anr.**

With

WPA 9535 of 2019

**The MNG Committee, Pranabananda JR. HS REPT
by Secretary and Ors.
Vs.
State of West Bengal and Ors.**

**Mr. Golam Mastafa
Mr. T.S. Samanta
..... for the Petitioners**

**Mr. Ranjan Saha
...for the Alleged Contemnor No.1**

Mr. Golam Mostafa, learned senior counsel
appears for the petitioner.

Mr. Ranjan Saha, learned counsel appears for
alleged contemnor no.1.

This is a contempt petition arising from an order
dated **September 12, 2023** passed by this court,
Annexure P1 at page 19 to the contempt application.
The relevant direction of this court from the said order is
quoted below:

*“Considering the submissions made on
behalf of the parties and considering the
materials on record, the petitioners shall
be at liberty to take steps to cure the
deficiencies pointed out by the
respondent no. 7 in paragraph 5 to its
affidavit report as referred to above and*

subject to due compliance thereof and subject to the satisfaction of the respondent no. 7 and thereafter the respondent no. 2 thereupon, the necessary recommendation shall be made by the respondent no. 2 before the respondent nos. 3 to 6 granting the necessary recognition to the relevant school.

The respondent nos. 2 and 7 shall reach its conclusion if it is otherwise in order and the deficiencies are cured by the petitioners positively within a period of **four weeks** from the date of curing of such deficiencies after causing the necessary enquiry in accordance with law. The respondent no. 2 shall then send its recommendation before the respondent nos. 3 to 6 within further period of **two weeks** from the date of reason its satisfaction as to the curing of the deficiencies pointed out to the petitioners.

The respondent no. 3 then upon reaching to its satisfaction shall issue the necessary recognition in favour of the relevant school, **Pranabananda Junior High School, District-Dakshindinajpur** positively within a period of **four weeks** from the date of receiving the recommendation from the respondent no. 2.

On the above terms and with the above observations, this writ petition being **WPA 9535 of 2019** stands disposed of.”

Deficiencies pointed out in Paragraph 5 to the affidavit of report filed by respondent no. 7 in the writ petition are quoted below:

“At present after making an inventory of the relevant school the following observations have been made for point no. 02, 04, 07, 10, 12, 13 14 as follows:-
2. Whether the school has a Building usable in all weather and sanctioned building Plan: They have a building plan and they have produced the plan at the time of inspector but at present the building is not at all in usable condition.

4. *Whether the School has a barrier free access: Yes, but there is no ramp in the school building for CWSN Students.*

7. *Has Girl's Common Room if it is a Co-Educational School: No, the School building was constructed for four (IV) Class Jr. High School and it has only four class room.*

10. *Has arrangement for periodical medical check-up for students: They could not produce any such documents regarding periodical medical check-up students.*

12. *Has determined Pay Structure for its Staff: They could not produce any such documents regarding determined Pay Structure for its Staff.*

13. *Has Provisions for CPF and Gratuity: They could not produce any such documents regarding CPF & Gratuity.*

14. *Has sufficient fire safety devices and trained person to handle the same: They have a provisional NOC regarding this matter from the Deputy Director North Zone. They also produced voucher of purchasing of some devices but could not show any such devices at the time of inspection. And for the point nos. 03, 09 and 11 which were reported as "No" the following observations have been made:-*

03. *Whether the School had a play ground for students: No, they have an area which may be used for playground if it is developed adequately but at present it is not in usable condition.*

09. *Has a library with minimum 500 books: No, they could not produce such records.*

11. *Has staff qualified as per NCTE Norms: No, as per their submitted documents they don't have the qualification as per NCTE Norms."*

In this contempt proceeding the petitioner alleges that despite the deficiencies have not been cured by the managing committee of the school, the alleged contemnors in willful disobedience of the direction of this court have not granted recognition to the school.

Mr. Golam Mastafa, learned counsel appearing for the petitioners submits that the reports filed in this contempt application by way of affidavits filed by the alleged contemnors no. 1, it would be evident that all the deficiencies cured by the school authority but still the recognition has been wrongly withheld in deliberate and willful violation of the direction of this court.

Mr. Ranjan Saha, learned counsel appears for alleged contemnor no. 1. Referring to **Annexure R-2 page 19** to the short affidavit filed by the alleged contemnor no. 1 affirmed on **June 26, 2024** in the contempt proceeding, he submits that the deficiencies have not been cured and the school authority was further requested to cure the deficiencies and details of deficiencies was mentioned in the letter dated **April 23, 2024**, issued by the **Deputy Director of School Education** to the **D.I.** The deficiencies are quoted from the said letter dated **April 23, 2024, Annexure R-2 at page 9** to the said short affidavit, herein below.

- “1. Information about separate Lavatory for Teachers.*
- 2. Information about Library with minimum 500 books.*
- 3. Information about Teachers’ trained qualifications as per NCTE norms.*
- 4. Information about pay structure of the staffs of the school.*
- 5. Information about provisions for CPF & gratuity.*
- 6. Information about school play ground.*
- 7. Information about fire safety devices in the school premises.*

So you are requested to inform the school authority accordingly.”

From a letter dated **May 20, 2024 Annexure R-4 at page 12** to the said short affidavit, it further appears that the D.I. referring to a letter dated **May 9, 2024** issued by the school authority mentioned that the above deficiencies have not been cured.

After considering the rival contentions of the parties and upon perusal of material on record, it appears to this court that, the jurisdictional **District Inspector of School** and the alleged contemnors are the appropriate fact finding authorities who upon repeated deliberation on the issue and enquiry found that the deficiencies alleged against the school are not cured, which are essential under the law to grant recognition to the school.

The contempt court in exercise of its jurisdiction cannot and shall not go for a detail fact finding enquiry which are otherwise in the domain of the school and the alleged contemnors. Unless a patent violation and disobedience of its direction is found by the court, a contempt court in exercise of its jurisdiction shall not entertain a contempt proceeding.

In the facts of this case, it is evident that disputed facts are there which either asserted by the school and disputed by the alleged contemnors or asserted by the

alleged contemnors but disputed by the school. This is not a fit case for contempt.

When there is a scope for further enquiry to assess the act of contempt of the alleged contemnors and there may be a doubt which can be raised with regard to the violation of the direction of the court, no contempt proceeding shall lie.

In view of the forgoing discussions and reasons this court finds no merit in this contempt proceeding.

Accordingly, this contempt proceeding **CPAN 223 of 2024** stands **dropped and closed**.

The application being **CPAN 223 of 2024** stands **dismissed** without any order as to costs.

However, dismissal of this contempt proceeding shall not preclude the school authority to cure the deficiencies to the fullest satisfaction of the state authority in every respect and in accordance with law. In the event authorities are satisfied fully they shall proceed accordingly.

However, this order shall not be construed as a modification or alteration of the original order dated **12th September, 2023** passed in the writ petition in any manner.

(Aniruddha Roy, J.)