

28.03.2024
Item No. 4
Crt.No.22
b.r.

WPA 4800 of 2024

Ayan Das (Minor)
-vs-
The State of West Bengal & Ors.

Mr. Gautam Dey
Mr. Prateep Bera
Ms. Dipanwita Ganguly
Ms. Ankita Ghosh
.... For the petitioner.

Ms. Bratati Roy Chowdhury
Mr. Arjun Samanta
.... For the State.

Mr. Mainak Ganguly
... for the Resp. no.4.

Affidavit of service filed in Court today, is taken on record.

Mr. Gautam Dey, learned advocate appears for the petitioner.

Ms. Bratati Roy Chwodhury, learned counsel appears for respondent nos. 1 and 2.

Learned State counsel files a report dated **February 23, 2024** signed by the **respondent no.2**, the jurisdictional **District Inspector of Schools (S.E.), Kolkata.**

Mr. Mainak Ganguly, learned counsel, appears for respondent no.4, the school concerned.

Mr. Ganguly places copies of the extract from the discipline register of the school before this Court today, the same is taken on record.

Copies of the said extract from the discipline register of the school and copy of the report filed by respondent no.2 are made over to Mr. Gautam Dey, learned counsel appearing for the petitioner.

The writ petition has been filed by a minor student of **Jadavpur Bidyapith** through his mother, **Smt. Sikha Das**. The petitioner presently studying at **Class-X** and is an aspirant for the **Madhyamik Examination, for the year 2025**. Learned counsel for the petitioner has informed this Court that the necessary registration with the Board for the petitioner has already been done and completed through the said school. The school then on **January 8, 2024** has issued the Transfer Certificate in favour of the petitioner-student for the reason **“Change of School”** and it was certified by the school authority that the student has been transferred on **January 8, 2024, annexure p-3 at page-19** to the writ petition. Challenging the said Transfer Certificate the petitioner has filed the instant writ petition.

Learned counsel for the petitioner submits that the registration process for the ensuing Madhyamik

Pariksha for the year 2025 has already been done through the said school and at this juncture, if the petitioner is transferred to another school then there shall be a serious procedural complications with regard to the change of registration certificate. Inasmuch as he further submits that the first term examination for Class-X of the school shall commence on and from April 1, 2024. Hence, the urgency in moving this writ petition before this Court today. He further submits that at this juncture, if the said Transfer Certificate is not set aside and the school is not directed to resume admission of the petitioner-student, the career of the petitioner shall be irreparably jeopardised. Hence, this writ petition.

Mr. Mainak Ganguly, learned counsel appearing for the school has drawn attention of this Court to the copies of the extract from the discipline register and submits that from time to time there are serious allegations made by the girls students before the school authority as would be evident from the discipline register of the school. This Court considering the age of the petitioner-student and his future refrains from discussing the nature of allegation made against the petitioner-student as would be event from the discipline register. However, the allegations are quite serious and if they are taken on their face value and gravity they can be termed as charges. Thus, this Court thinks not to

discuss them elaborately. The extract from the discipline register shows that the mother of the petitioner-student has tendered apology on repeated occasions for the conduct of her son. The extract from the discipline register further shows that on or about January 28, 2024, the mother of the petitioner-student, namely, Smt. Sikha Das specifically requested the school to issue the Transfer Certificate in favour of the petitioner-student. However, on a close reading of the averments made in the writ petition this fact of request for issuing Transfer Certificate made by the mother of the petitioner-student has not been disclosed and the said fact came into light only when the extract from the discipline register has been produced before this Court. This amounts to a clear suppression of material fact on the part of the petitioner and his guardian who signed and verified the writ petition.

From the report submitted by the learned State counsel signed by the jurisdictional District Inspector, the copies of the same extract from the discipline register are available. Thus, this Court, since as already discussed the said extract from the discipline register herein before, does not require to deal with any further.

Learned counsel for the petitioner immediately after the said facts are brought before this Court prayed for an adjournment.

After considering the rival contentions of the parties and upon perusal of the materials on record, this Court first keeps in its mind that the writ Court is always a Court of conscience and a Court of equity.

The petitioner being a boy of 15 or 16 years, student of Class-X at best even if loses one year from his career but considering the conduct of the petitioner-student as would be evident from the extract of the discipline register, the same may be a blessing in disguise so that a boy of 15 or 16 years can get a lesson for his life where the loss of a single year from his career will be a lesser burdensome event.

In the event, the petitioner-student is allowed to march on the situation, he shall not get the lesson of life considering the nature of allegations levelled against the petitioner-student.

Inasmuch as the conduct of the mother of the petitioner as discussed above is also deprecated by this Court that while verifying the writ petition a material fact was deliberately and wilfully suppressed as discussed above.

Furthermore, considering the allegations against the petitioner-student, the school has acted most fairly while issuing the Transfer Certificate. It is a fair policy decision of the school.

In view of the foregoing reasons and discussions, this Court is of the considered opinion that no equity can be shown in favour of the petitioner-student.

It is also made clear that observation, if any, made in this order against the petitioner-student shall not have any effect or further effect on his future career and if the petitioner or his guardian approaches any other school for admission, such school authority shall take steps by using its discretion strictly in accordance with law without being influenced by observation, if any, made in this order but with some sympathy considering the future of the petitioner-student.

With the above observations, this writ petition, **WPA 4800 of 2024** stands **dismissed**, without any order as to costs.

(Aniruddha Roy, J.)