

02.07.2024
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Sl. No. 71
Ct. No. 08

FMA 646 of 2022
With
CAN 1 of 2022

Dr. Sukumar MK Ghosh
Vs.
The State of West Bengal & ors.

Mr. Raja Biswas
Mr. Abhijit Sarkar

.... for the appellant

Mr. Prosenjit Mukherjee
Ms. Madhurima Sarkar

... for the
respondent Nos. 2 & 3

This appeal arises from an order dated 22nd February, 2022 by which the writ petition filed by the appellant is dismissed both on the ground of its locus as well as on merit. The petitioner claiming himself to be a social activist, Human Right defender, physician, 60% handicapped person and connected with various social reformative activities for uplifting the socially and economically backward class people and also a founder of “Kolkata Community Human Rights and Welfare Association” filed the writ petition being WPA 14384 of 2021 seeking for a mandamus commanding the West Bengal Madrasah Education Department to conduct an enquiry in fair and impartial manner over the fake Managing Committee of Hulaspur Modern India Senior Madrasah and to disburse the financial aids and other miscellaneous aids to the appropriate organizing authority of the said Madrasah.

The case made out in the writ petition runs in several paragraphs are basically founded on the fact that the petitioner being a social activist was showing concern over the rural female and child illiteracy in the minority and the backward class and thereafter form Kolkata Community Human Rights and Welfare Association as a non-government organization. The petitioner claimed to hold the post of the President of the said Association and also the President of the West Bengal Schools of Madrasah Managing Committee as well as the President of the said Madrasah being the subject matter of the writ petition. Subsequently, the petitioner has not been taken as a President of the said Committee or Organization, the Schools and otherwise and found that a fake Managing Committee has been constituted. Immediately approach was made to the competent authority for making a thorough enquiry with regard to such malpractices and/or misdeeds relating to the same and sensing that no action has been taken by the authority, the writ petition was filed with the following prayer:-

“a) A Writ or Writs, Order or Orders, direction or directions be passed commanding the respondent authorities of West Bengal Madrasah Education Department to conduct an enquiry in fair and impartial manner about fake managing committee of Hulashpur Modern India Senior Madrasah and to disburse the financial aids and other miscellaneous aids to the

appropriate organizing authority of Hulashpur Madrasah India Sr. Madrasah and Rule may be made absolute why such order shall not be passed.”

When the writ petition was taken up before the Single Bench, it was informed by the West Bengal Madrasah Service Commission that the authorities took a serious note of the allegations projected by the appellant herein and in fact constituted a Committee to make an enquiry. The enquiry was conducted way back in 2015 and the report was also filed. The Single Bench dismissed the writ petition as the purpose for which writ petition was filed appears to have been fulfilled and/or taken care of. We also find from the materials available from the record that the only prayer made in the writ petition is for conducting a fair and impartial enquiry and the moment the Court found that the enquiry was conducted and the report came to be filed, no further relief can be granted in this regard.

The counsel for the appellant vociferously submits that the report does not indicate that the enquiry has been conducted in a fair and impartial manner, which in our opinion cannot be entertained at the appellate stage. The Court shall go by the pleadings as well as reliefs claimed in the writ petition. The moment the Court find that the substantial prayer made in the writ petition has been duly granted, the writ petitioner cannot enlarge the scope of the writ

petition in absence of any pleading or further reliefs claimed therein. There is no challenge to the report nor any steps were taken. The respondent authorities brought to the notice of the writ petitioner that the enquiry was conducted and the report has been submitted and, therefore, at the appellate stage we do not find any infirmity and/or illegality in the impugned order.

The appeal is dismissed without any order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)