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2024
Ct. No. 08
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MAT 757 of 2022
IA No. CAN 1 of 2022
The President of
Titagarh Arya Vidyalaya and others
Vs.
Smt. Manju Kumari and others.

With

MAT 761 of 2022
IA No. CAN 1 of 2022
The President of
Titagarh Arya Vidyalaya and others
Vs.
Om Prakash Yadav and others.

With

MAT 765 of 2022
IA No. CAN 1 of 2022
Smt. Manju Kumari and others
Vs.
State of West Bengal and others.

With

MAT 767 of 2022
IA No. CAN 1 of 2022
Om Prakash Yadav and others
Vs.
State of West Bengal and others.

Mr. Partha Sarathi Bhattacharyya,
Mr. Raju Bhattacharyya.
... for the appellants in MAT 757 of 2022 &
MAT 761 of 2022 &
for the respondent no. 6 to 8 in MAT 765
of 2022 and MAT 767 of 2022.

Mr. Sunit Kumar Roy.
... for the writ petitioners/private respondents
in MAT 757 of 2022 and MAT 761 of 2022
& for the appellants in MAT 765 of 2022 &
MAT 767 of 2022.

Mr. Bhaskar Prosad Vaisya, Ld. AGP,
Mr. Suman Dey.
... for the State in MAT 757 of 2022.

Mr. Bhaskar Prosad Vaisya, Ld. AGP,
Mr. Sagnik Chatterjee.
... for the State in MAT 761 of 2022 &

MAT 767 of 2022.

Mr. Supriyo Chattopadhyay, Ld. AGP,

Mr. Avishek Prasad.

... for the State in Mat 765 of 2022.

Ms. Koyeli Bhattacharyya,

Mr. Bibek Dutta.

... for the WBBSE.

The aforesaid appeals arise from a common order i.e. the order dated 28th April 2022 by which the Single Bench arrived at a conclusive opinion that the writ petitioners' claimed for an approval, is not tenable in view of the resolutions contained in the Resolution Book maintained by the School. Simultaneously, the concerned District Inspector of Schools was directed not to hand over the registers to the school authorities without the leave of the Court. The matter was kept 'Part Heard' to be decided later on.

Both the writ petitioners as well as the school authorities have filed the aforesaid appeals challenging the aforesaid order; obviously the writ petitioners are aggrieved by the conclusive opinion recorded in the first paragraph of the said order and the school authorities are aggrieved by the direction contained in the second paragraph. The matter is still pending before the Single Judge.

The Court should not make any observation at the interlocutory stage, which has a material bearing and impact at the time of final disposal of the case. If the conclusive opinions or findings are recorded at the interlocutory stage, it would foreclose the proceedings then and there and we do not find any justification in keeping all the matters pending for a simple reason.

The only point involved in the writ petition is whether the writ petitioners are entitled to get their services approved and/or regularized having served in the institution since long.

Our attention is drawn to the several orders passed in the said writ petition. By an order dated 15th November 2021, a direction was passed upon the concerned District Inspector of Schools to submit a report in the form of an affidavit disclosing the reasons for which the point relating to the approval was kept pending. Such report came to be filed on the next date.

It was the specific stand of the parties appearing before the Court that they must be permitted to peruse the records before they can file an exception to the said report, which was eventually allowed. The matter was again listed on 3rd February 2022 and the second report was filed with the specific direction upon the State to supply the copy of the said report to the appearing respondents and a liberty was granted to the respondents to take an exception to the said report, if they so feel. However, the stand was taken unless they are permitted to go through the records, which is lying with the said District Inspector of Schools, it would not be possible for them to take an exception to the report.

Apropos the aforesaid submission, a direction was passed upon the District Inspector of Schools not to return the records to the school, but a liberty was granted to the respondents to consult the records upon taking a prior appointment from the authorities and to file an exception to the report on the next date. The matter again appeared on 24th February 2022, when the District Inspector of Schools submitted that the inspection of the record cannot be done in one day and, therefore, the parties may be permitted to complete the inspection within a short period of time. On 7th April 2022, the objection to the report was filed and an order was passed upon the District Inspector of Schools and also the Teacher in-Charge to remain personally present in the Court on the next date. The matter was listed on 28th April 2022 and the order passed on the said date is impugned in the aforesaid appeals.

It does not reveal from the order that the Court, though insisted on 7th April 2022, directed the personal presence of the District Inspector of Schools and the Teacher in-Charge, they were personally present.

The exception to the writ petitioners are on record, which would be evident from the earlier orders passed in the said writ petition and, therefore, it is not proper on the part of the Single Bench to surreptitiously jump to the final conclusion that the writ petitioners are not entitled to get the services regularized/approved in view of the resolutions taken by the School Managing Committee. There is no decision taken by the Single Bench on an objection taken by the school or the writ petitioners to the report submitted by the District Inspector of Schools and, therefore, it is not proper on the part of the Court to make a finding, which would have an impact at the time of disposing of the writ petition on merit.

So far as the records to be kept by the District Inspector of Schools is concerned, we find that the school authorities are facing difficulties in day to day running and managing the affairs of the school. The reference of the earlier records are important and of great significance and, therefore, we do not find any justification or sound logic in directing the District Inspector of Schools to keep the custody of the aforesaid records.

We are not unmindful that the Single Bench may have perused and found some startling facts emanating therefrom and in order to preserve and protect such documents, it might be possible that the District Inspector of Schools to keep the record with it, but equally we cannot overlook the fact that in absence of any records maintained by the school, the School Authorities would not be in a position to administer and manage the affairs of the school. We feel that the aforesaid apprehension can be sufficiently taken care of

in the event the District Inspector of Schools makes a photocopy of the entire records in his possession relating to the said school duly authenticated by an authorized person of the school.

We, therefore, direct the concerned District Inspector of Schools to undertake the said exercise and after due authentication by an authorized person on each pages of the Photostat copy of the record, original record shall be returned to the School Authorities upon proper receipt.

Since the matter is still pending before the Single Bench, we expect that the Single Bench will proceed with the matter and bring to its logical end at an earliest,

In view of the above, the order dated 28th April 2022 is hereby set aside.

The appeals and the connected applications are, accordingly, disposed of.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)