

26.11.2024
Court No. 18
Item No. 30
(Suvendu)

WPA 25057 of 2024

Headmaster, Keranitala Shree Shree
Mohananda Vidyamandir (HS),
Midnapore
-Versus-

State of West Bengal & Ors.

Ms. Usha Maity
Mr. Sakya Maity

.....for the petitioner

Mr. Pinaki Dhole
Mr. Avishek Prasad
Mr. Sourodeep Singha

.....for the State

Ms. Saswati Chatterjee

.....for the WBBSE

Mr. Arjun Bhajan
Mr. D. Khan

....for the respondent no.8

Affidavit of service filed on behalf of the
petitioner is taken on record.

Headmaster of Keranitala Shree Shree
Mohananda Vidyamandir (HS), Paschim
Medinipur (hereinafter referred to as the “said
school”) has approached this Court with the
present writ petition, *inter alia*, questioning
validity of two orders, one is dated 22nd
February, 2024 and another is dated 5th March,

2024 issued by the Assistant Secretary to the Government of West Bengal, School Education Department and Deputy Director of School Education (Basic), West Bengal respectively.

It is submitted by Ms. Maity, learned advocate representing the petitioner that on wrong consideration of facts relating to reconstitution of Managing Committee of the said school order dated 22nd February, 2024 was issued since it was recorded therein that three years tenure of the Managing Committee of the said school under Management of Sponsored Institutions (Secondary) Rules, 1972 (for short, "said Rules") was supposed to have expired necessitating reconstitution of the Managing Committee in terms of Rule 5 of the said Rules of 1972. Basis of subsequent order dated 5th March, 2024 is the order dated 22nd February, 2024 thereby fresh nominations were made on the Managing Committee of the said school for the purpose of reconstitution. It is further submitted on behalf of the petitioner that Managing Committee of the said school was reconstituted in the month of September, 2019 and statutory life of three years came to end in the month of September, 2022 requiring further

reconstitution. Relying upon resolution dated 29th September, 2022, which is at pages 48 and 49 of the writ petition, it is submitted that taking necessary steps relating to reconstitution same was complete on 29th September, 2022 and subsequently it was intimated to the concerned District Inspector of Schools (SE), Paschim Medinipur vide letter dated 26th November, 2022 that election under teaching and non-teaching category was held on 19th November, 2022 for electing representatives on the Managing Committee. Based on this fact, it is also submitted that once reconstitution was complete in the month of September, 2022 the present Managing Committee is required to function till expiry of three years and life of the present Managing Committee exists up to September, 2025. Therefore, according to the petitioner, Assistant Secretary while issuing impugned memo dated 22nd February, 2024 erroneously recorded that the tenure of the Managing Committee is supposed to have expired and based on such finding direction was given for immediate reconstitution of the Managing Committee. However, one Nupur

Ghosh was permitted to continue as President of the Managing Committee.

Mr. Dhole, learned advocate representing State respondents has opposed the prayer made in the writ petition on the ground that after September, 2019 there was no valid reconstitution of the Managing Committee. Therefore, according to the State respondents, statutory life of the Managing Committee expired in September, 2022 which necessitated the concerned respondent authorities to pass order dated 22nd February, 2024 for immediate reconstitution of the Managing Committee. It is also submitted to facilitate such reconstitution said school authorities are required to follow subsequent order dated 5th March, 2024 issued by the Deputy Director of School Education (Basic), West Bengal wherein four members were nominated who would be members of the newly reconstituted Managing Committee. According to the learned advocate representing the State respondents there is no anomaly in the order dated 22nd February, 2024 requiring the said school authority to reconstitute Managing Committee immediately.

Respondent no. 8 is also represented by learned advocate.

Having considered the respective submissions made on behalf of the parties and taking note of the relevant facts, it appears that Assistant Secretary in his order dated 22nd February, 2024 came to a finding that three years tenure of the Managing Committee of the said school is supposed to have expired. However, order dated 22nd February, 2024 does not depict the basis of such finding.

Specific case has been made out on behalf of the petitioner that last reconstitution of the Managing Committee took place in the month of September, 2022. Therefore, statutory period of three years would expire in the month of September, 2025 and in support of such submission reliance is placed on the resolution dated 29th September, 2022 and letter of the school authority dated 26th November, 2022 intimating the concerned District Inspector of Schools (SE) the date of holding election to elect representatives under teaching and non-teaching category on the Managing Committee.

In view of such materials, this Court does not find any adverse fact which may lead this

Court to come to a finding that there was no valid reconstitution of Managing Committee in the month of September, 2022. Nothing has been demonstrated in the order dated 22nd February, 2024 relating to basis of finding that there was no reconstitution of the Managing Committee of the said school in the month of September, 2022, which is further corroborated from the expression used by the Assistant Secretary in the said order dated 22nd February, 2024 that the tenure of the Managing Committee is “supposed” to have expired. In absence of supporting materials, on surmise and conjecture Assistant Secretary ought not to have drawn inference that there was no reconstitution of the Managing Committee of the said school in the month of September, 2022.

In view of aforesaid discussion, this Court finds the decision of the Assistant Secretary as contained in the order dated 22nd February, 2024 is erroneous and same is set aside.

Since this Court finds that the order dated 22nd February, 2024 cannot survive, no effect is required to be given to the order dated 5th March, 2024 issued by the Deputy Director of School Education (Basic), West Bengal, so far as

applicability of such order upon the said school is concerned.

However, this order shall not preclude the concerned State authority to take decision afresh on the validity of the reconstitution of the Managing Committee which took place in the month of September, 2022 after giving opportunity of hearing to the petitioner and President of the Managing Committee of the said School.

With the aforesaid observations and directions, writ petition stands disposed of.

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

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)