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2024

Ct. No. 08

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FMA 1337 of 2024
IA No. CAN 1 of 2024

Guru Nanak Mission High School (HS) and another
Vs.
The State of West Bengal and others.

Mr. Sandip Kumar De,
Mr. Abhijit Sarkar.

... for the appellants.

The affidavit of service filed in the Court today is kept with the record. Despite service there is no appearance on behalf of the State.

By the impugned order dated 3rd October 2024, a direction was passed upon the respondents to file their affidavit-in-opposition and reply by the petitioners so that the writ petition can be finally disposed of.

The grievance of the writ petitioners/appellants in the instant appeal is in relation to a question framed by the Single Bench to the effect that whether in absence of Special Rules framed for the institution by the concerned State authorities, the petitioners' institution can be treated as minority institution either based on religion or language.

It is submitted by the appellants that the appellants' institution is set up by the minority community and, therefore, the question of any Special Rules to be framed in this regard is not necessary.

The Court while embarking its journey on the peripheral of a determination to be made in a legal proceeding often framed the points, which appear to the Court to be relevant, but that cannot be construed that the other points involved in the legal proceedings cannot be decided by the Court. The Court will decide all the points that would emerge from the respective pleadings of the parties and, therefore, the apprehension of the

appellants that the writ petition would be decided on the point, as disclosed in the impugned order, is unfounded.

Apart from the same, there is no fetter on the part of the Court at the time of determining the proceeding finally to arrive at a conclusion that the points so framed at an initial stage of the proceeding have no relevance and, therefore, mere indicating the point in the impugned order does not curtail the right of the litigant to have the cause decided on merit.

We, thus, do not find that the apprehension shown by the appellants come within the peripheral of illegality and/or irregularity.

The appeal and the connected application being CAN 1 of 2024 are dismissed.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)