

JPD-19
Ct No.01
30.07.2024
S.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

MAT/148/2023
IA NO: CAN/1/2023

THE MANAGING COMMITTEE, LINGSEY HIGHER
SECONDARY SCHOOL
VS
THE STATE OF WEST BENGAL AND ORS

Mr. Bikramaditya Ghosh
Ms. Supriya Singh

...for the appellant

Mr. Arjun Chowdhury
Ms. Pratusha Dutta Chowdhury

...for the respondent no.7

Mr. Hirak Barman
Mr. Momenur Rahman

...for the State

1. Learned counsel for the parties agree to the appeal itself being taken up with the application for disposal.
2. The scope of the appeal is extremely limited.
3. The writ petition was filed challenging a notice under Section 91 of the Code of Criminal Procedure. The context of the case was that there were allegations against the headmaster of a particular school under the POCSO Act. In

connection therewith, the investigating agency wrote a letter, apparently to the President of the School Managing Committee, seeking certain documents in aid of the investigation. The petitioner's challenge was that the Secretary, and not the President, was the custodian of the documents and ought to have been addressed in such notice.

4. While hearing such challenge, the learned trial Judge, *vide* impugned order dated August 24, 2023, read a deep conspiracy to protect the headmaster into the action of the Managing Committee and went ahead to dissolve the Managing Committee itself.
5. Upon query of Court, it is submitted by learned counsel for the appellant that pursuant to direction of Court, in the meantime, an affidavit has been filed disclosing that all the documents which were sought by the investigating agency have in the meantime been furnished by the Managing Committee.
6. Learned counsel appearing for the respondents does not disagree to the said statement regarding all documents having been furnished.
7. Upon hearing learned counsel for the parties, we find that the impugned order, particularly with regard to the dissolution of the Managing

Committee of the school, is palpably *de hors* the jurisdiction of the Court and entirely beyond the purview of the subject-matter of the challenge in the writ petition itself. Moreover, the findings against the Managing Committee were premature and could only be the subject-matter of investigation.

8. Accordingly, MAT 148 of 2023 along with CAN 1 of 2023 are allowed, thereby setting aside the impugned order dated August 23, 2023 passed in WP No.1929 of 2023 and restoring the Managing Committee.
9. It is, however, made clear that this Court has not expressed any opinion on the merits of the investigation and/or the subject-matter of the same and it will be open to the concerned investigating agency as well as the trial court, if the matter reaches trial, to come to their own findings independently irrespective of the observations made above.
10. Consequentially, the order dated August 23, 2023 passed in WP No.1929 of 2023, imposing costs on the writ petitioner, is also set aside.
11. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)