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2025**

Ct. No. 08

Ab

**FMA 742 of 2024
IA No. CAN 1 of 2024**

**Managing Committee,
Beara High School (H.S.) and others
Vs.
The State of West Bengal and others.**

**Mr. Sanjib Das,
Mr. Abul Hasan.**

... for the appellant.

**Ms. Koyeli Bhattacharya,
Mr. Bibek Dutta,
Ms. Keya Panja.**

... for the WBBSE.

**Mr. Satyam Mukherjee,
Mrs. Sayani Ahmed.**

... for the respondent nos. 20 to 24.

The Managing Committee of the school is pursuing the litigation on the perception that the resolution of the earlier Managing Committee was improper and the action taken by the Board thereupon is liable to be impinged and/or interfered with.

The facts emerged from the record reveal that the local villagers felt necessary to establish a school to impart education to their children at a doorstep and donated the land as well as the money in this regard. The family of the private respondents have not only donated the substantial land but also extended the monetary donation so that the school may function seamlessly and the children of the locality would be benefited therefrom.

The resolution of the Managing Committee taken in the year 1969 indicates that the name of the school was to be recognized as Brojendranath High School, but the approval and recognition could not be done as the school was all along known as Beara High School. Subsequently, another resolution was taken when a further donation of substantial amount was received by

the school from the family of the private respondents and the approach was made to the authority to incorporate the name of the ancestors. It was decided to incorporate such name, but there was an agitation or a representation made from the several persons and ultimately this Court was approached by the private respondents. An order was passed upon the President of the Board to conduct a hearing after affording an opportunity of hearing to the person interested therein and to take a conscious decision in this regard.

In compliance of the said order, the hearing was conducted and an order was passed by the President on 24th July 2023 accepting the proposal for the change of the name of the school in the following manner i.e. Beara Brojendranath High School, North 24-Parganas. This order of the President is challenged by the Managing Committee of the school raising several issues, but ultimately the Single Bench did not find any substance therein and dismissed the writ petition thereby upholding the order of the Board.

The Counsel for the appellants vociferously submits before us that it is not only the family members of the private respondents, who donated the land but several other persons donated their land for establishment of the school and the school was all along recognized as "Beara High School" without any incorporation of the name i.e. 'Brojendranath'. It is further submitted that there is a mass agitation in the locality when the name was changed and, therefore, it would not be proper to incorporate the name in between the word 'Beara' and 'High School' with 'Brojendranath'. It is arduously submitted by the Counsel for the appellants that no notice of hearing was ever served on him and the decision impugned in the writ petition was taken in absence of the representatives of the Managing Committee and,

therefore, the same is liable to be quashed and set aside.

The order impugned in the writ petition is annexed to the stay application wherefrom it appears that the notice communicating the date of hearing was sent by post and the postal article returned with the remarks “refused”. An explanation is sought to be given by the appellants that during the period, the Panchayat Election was declared and, in fact, the Head of the Institution was entrusted by the Election Commissioner to be a part of the said election process and, therefore, endorsement on the postal article is incorrect. It is further submitted that the school was also requisitioned by the Administration to cater the need of the CRPF personnel and, therefore, the appellants did not have an access to the school.

It is a trite law that the endorsement made on the postal article raises a presumption of its correctness unless rebutted by cogent and convincing evidence. The moment the postal article is dispatched and tendered to the postal authorities, the sender has no control over it and, therefore, mere denial of the correctness in the endorsement put on the postal article is not sufficient. The refusal to accept the notice or the postal article raises a strong presumption of due service unless rebutted. It is a rebuttal presumption and, therefore, the onus lies on a person, who denies the correctness of the endorsement put by the Postal Peon on the reverse of the postal article. In order to substantiate that such endorsement is incorrect, a shelter is sought to be taken under the engagement in the Panchayat Election.

Our attention is drawn to an order of the District Panchayat Election Officer issued in favour of the school indicating that the Panchayat Election would be held on 8th July 2023 and the school is required for the

purpose of the aforesaid Election on the said date. The letter issued by the Panchayat Returning Officer in favour of the Head of the Institution of the said school indicate that he is appointed as Counting Supervisor and the reporting schedule is shown as 11th July 2023 at 6.00 a.m.

The department of India Post in its official website indicated the fate of the postal articles sent to the respective addressees, it appears that several persons received the postal articles on 10th July 2023 and the postal article sent to the Head of the Institution was returned with the remarks “refused”. If a postal article has reached on the said date, it is inconceivable that the appellants were not present on the said date i.e. on 10th July 2023. The appellants have not been able to make out a case that the Postal Peon has any personal animosity with him nor he was managed by the sender. The Board does not have any personal interest nor bias against a person and once the postal article is sent by the Board, it is inconceivable that there would be an unholy nexus with the Postal Peon.

Apart from the same, the order passed by the President vividly reflects that despite the postal article having returned with the remark “refused”, the contact was sought to be established through phone, but the Head of the Institution did not respond to it when the Election of the Panchayat and the counting was over.

We are not convinced with the appellants that they were prevented by cogent reason and, in fact, were not present at the time the Postal Peon tenders the postal article rather it appears from the conduct that the refusal cannot be doubted. If the person consciously decided not to accept the notice and participate in the hearing, it cannot render the entire exercise in suspended animation, but the authority have to proceed to decide the cause, as directed by the

High Court in earlier round of litigation.

We find that the Board has taken a conscious decision incorporating the name 'Brojendranath' in between 'Beara' and 'High School' taking into account the several aspects, which are noticed by the Single Bench.

We, thus, do not find any infirmity in the judgment of the Single Bench. However, we find that the Managing Committee of the school is pursuing the litigation without any valid cause and, therefore, it becomes inevitable to impose costs.

The appeal and the connected application being CAN 1 of 2024 are dismissed with a costs assessed at Rs. 50,000/- to be deposited with the Lawyers Benevolent Fund within two weeks from date.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)