

06.03.2025
Item No.3
gd/ssd

WPA/13622/2019
TAPAS PAL
VS
STATE OF WEST BENGAL & ORS.

Ms. Sumouli Sarkar,
Mr. Sourojit Mukherjee
..for the Petitioner.

Md. T.M. Siddiqui,
Mr. Suddhadev Adak
..for the State.

Mr. Sanjay Kr. Baid
..for the Respondent Nos.9 to 13.

1. This public interest writ petition has been filed in the year 2019 by a person who has stated to be a social worker associated with a society and is also popular teacher in the rural area, engaged in the imparting education voluntarily to the poor and downtrodden children in the locality and also conducts regular workshops with the parents of such children so as to help them overcome such drawbacks and he has keen interest in the maintenance of the local schools by supervising the upkeep of the class equipments.

2. Though this is the averment in paragraph 3 of the writ petition, the prayer sought for in the writ petition is to direct the respondent nos.9 to 11 to follow the provisions of the Management Rules, 1969 in the day to day functioning of the school and the provisions of the SSC Act, 1997. Prayer has also been made to

direct the authorities to ensure that the management and administration of the schools should not be made by misusing the alleged minority status. Though such was the prayer in the writ petition the private respondent nos.9 to 13 alone have been impleaded though the prayer seeks for larger relief.

3. At the outset this court posed a question to the learned advocate appearing for the petitioner as regards his locus standi. The stand taken by the petitioner before this court as well as in the affidavit-in-reply filed to the affidavit-in-opposition filed by the respondents is that this issue is immaterial. We do not agree with the stand taken by the petitioner in this regard considering the peculiar facts and circumstances of the case and the background in which the writ petition has been filed. Along with the writ petition there are several documents filed as annexures and as many as more than nearly 170 pages and on a perusal of those documents, it is evidently clear those are the documents pertaining to the private respondents, their institutions and matters connected therewith. A public interest litigant who comes to court making certain allegations against the private party or for that matter against the private institution should disclose as regards the source of the documents which have been filed along with the writ petition specially

when the petitioner has no connection with those documents.

4. The learned advocate for the petitioner would submit that there are several litigations pending and those documents are freely available.

5. This submission needs to be outrightly rejected if a third party seeks for copies of certain records or documents which were annexed to cases which are pending before this court, then there is a procedure to be followed for obtaining certified copies of those documents. All these aspects having not been followed in the instant case, we express serious doubt as regards the bona fides of the petitioner in filing this writ petition.

6. At this juncture, it will be beneficial to refer to the decision of the Hon'ble Supreme Court in *Gurpal Singh vs. State of Punjab and ors.* reported in (2005) 5 SCC 136, wherein Supreme Court has laid down the conditions, which the Court has to be satisfied while entertaining a petition styled as a public interest litigation and one such condition being the credentials of the applicants. In the said decision the Court noted that in the PILs official documents are being annexed without even indicating as to how the petitioner came to possess them. In fact, we had posed a question to the learned Advocate for the petitioner exactly on the same issue because the petitioner has annexed several

documents, which relate to the internal administrations of the private respondents and there is not a single averment in the writ petition as regards the source from which the petitioner came to be in possession of those documents. Precisely for this reason, we rejected the arguments of the learned advocate for the petitioner that this aspect is irrelevant.

7. Be that as it may, on perusal of the contentions raised in the writ petition, it is evidently clear that the petitioner is unaware about the said legal principle as laid down by the Hon'ble Supreme Court in various decisions while interpreting Article 30(1) of the Constitution of India. We may refer to one such decision in the case of *N. Ammad v. Manager, Emjay High School and Others* in (1998) 6 SCC 674. In the said decision the Hon'ble Supreme Court pointed out that a school which is otherwise a minority school would continue to be so whether the Government declared it as such or not and when the Government declared the School as a minority school it has recognised a factual position that the School was established and is being administered by a minority community. The declaration is only an open acceptance of a legal character which should necessarily have existed antecedent to such declaration. We have also perused the affidavit-in-opposition filed by which has dealt with the effect of

Rule 33 of the Management Rules, 1969 which Rule was omitted amending the Rules in the year, 2008. The omission or repeal of Rule 33 will not in any manner affect the right, privilege, obligation, liability acquired accrued are required or incurred under any enactment so omitted or repealed. The right which had accrued in favour of the private respondents framing of Rules by the State in exercise of the power conferred by Rule 33 on the application of the West Bengal Association of Christian Schools on behalf of a class of institutions to which the provisions of Article 30 of the Constitution applies is not affected by omission or repeal of the said Rule. Furthermore, it is seen that Rule 33 being an enabling provision bestowed power upon the State Government to frame Rules for composition, powers, functions of Managing Committee of such institutions to which the provisions of Articles 26 and 30 of the Constitution may apply and the said power can only be exercised upon an application being made by such institutions are clearly shown that Rule 33 was an enabling provision. Furthermore, the said Rule which was notified during 1974 provides for the mode and method of the management of the minority institution and is nothing to do with the minority status of the institution.

8. Therefore, we have no hesitation to hold that the writ petition is voluntarily misconceived and no relief as sought for by the petitioner can be granted.

9. For the above reasons, the writ petition stands dismissed.

10. We would have been well justified in imposing exemplary cost but, however, taking note of the averment made in the writ petition that the petitioner is being certain social work to help the needy and down trodden and he claims himself to be a popular teacher in the locality, we refrain from imposing any cost.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)