

0701
2025

TUESDAY

Court : 08
Item : DL-39
Matter : FMA
Status : DO
Bench ID : 266048
Transcriber : NANDY

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 1024 OF 2024
(MAT 1523 OF 2024)
with
CAN 1 OF 2024

ANINDITA GHOSH
Vs.
THE STATE OF WEST BENGAL & ORS..

MR. VICTOR CHATTERJEE, ADVOCATE
MR. BARNAMOY BASAK, ADVOCATE
.....for the Appellant
MR. BHASKAR PRASAD VAISYA, LD AGP
MR. PINAKI BHATTACHARYA, ADVOCATE
.....for the DPSC, North 24-Parganas
MR. SUPRIYO CHATTOPADHYAY, ADVOCATE
MR. SABYASACHI MONDAL, ADVOCATE
.....for the State

1. It is no longer *res integra* that the power exercised by the High Court under Article 226 of the Constitution of India is to see that the process of a decision taken by the administrative authorities can withstand on the anvil of the Constitutional as well as the statutory provisions and not concerned with the decision taken by the administrative authorities. The Court should avoid usurping the powers of the administrative authorities under Article 226 of the Constitution of India. There is a separation of powers in the three limbs envisaged in the Constitution which is apparent though at times become blurred which is always regarded as an exception.
2. The writ Court shall deal with the matter agitated by a litigant and to decide whether the reliefs claimed therein comes within the peripheral of the powers enshrined under Article 226 of the Constitution of India but should not take up the responsibility of the

administration who is the best authority to take a decision in managing the affairs for which it is created. The Court should not pass an order which is neither prayed for nor any pleading in support thereof, is averred in the petition.

3. Reverting to the facts of the case, the appellant/petitioner being the Head Teacher of Kamalapur Adarsha Vidyaniketan, Shyamnagar Circle, approached the Court, raising a grievance before the DPSC, North 24-Parganas with regard to the conduct, the demeanour of the private respondent including his appointment to the post of Assistant Teacher.
4. On the basis of the complaint, District Primary School Council, North 24-Parganas, intervened but did not find any irregularities in the appointment of the private respondent. Since the allegation of insubordination and financial embezzlement in the mid-day meal scheme was flagged by the appellant /petitioner, the Single Bench was of the view that because of such acrimony between the appellant and the private respondent, it is desirable that the private respondent should be transferred to any other School situated near to her residence with clarification that such transfer should not be treated as penal.
5. The Court should not exercise the power under Article 226 of the Constitution in directing transfer of a teacher from one School to another, as it comes within the domain of the administrative authorities. The moment the writ Court substitutes itself into the armchair of the administrative officer, it would offend the core value of the separation of powers envisioned by the law-makers.

6. We thus set aside the portion of the order by which the transfer of the appellant/petitioner was directed to be effected,.
7. So far as the direction upon the Block Development Officer, Barrackpore Circle, is concerned, since a serious allegation of financial embezzlement in the midday meal scheme is leveled by the appellant/petitioner, such authority would make an enquiry into the same after affording an opportunity of hearing to all the respective parties, in accordance with law.
8. The order impugned is thus modified to the extent as above.
9. The appeal being **FMA 1024 of 2024** and the connected application being **CAN 1 of 2024** are accordingly **disposed of**.

(HARISH TANDON, J.)

(PRASENJIT BISWAS, J)