

13.02.2025
Item No.11
PG/KS
Ct. No.1

W.P.A. (P) 517 of 2024

**Pradip Kuity & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Dinesh Pani

.....For the Petitioners

Mr. Supriyo Chattopadhyay, Ld. A.G.P.

Mr. Suman Dey

Ms. Sayantanee Bhattacharjee

.....For the State

1. The issue in this writ petition is whether a land, which has been earmarked as a playground for the school, which was donated by certain well-wishers could be regularly used for the purposes of conducting fairs, melas etc.
2. The petitioners have annexed certain photographs along with the writ petition, which show that there are several sheds, which virtually appeared to be permanent establishments.
3. Learned advocate appearing for the petitioners places reliance on the decision of the Hon'ble Supreme Court in ***Krishan Lal Gera Vs. State of Haryana & Ors.*** reported in ***AIR 2011 SC 2970***. In the said decision, the Hon'ble Supreme Court has held that sport complexes cannot be converted into a recreation area, stadium complexes cannot be used for non-sporting

recreational activities or for holding marriages or other functions etc.

4. Reliance was also placed on the decision of the High Court of Madhya Pradesh in ***Surendra Yadav Vs. State of Madhya Pradesh*** in ***W.P. 10687 of 2009 (PIL)*** wherein direction was issued to the authorities not to lease out the land for any activity, which is not related to the sports.
5. Learned advocate appearing for the State submitted that in terms of the notification issued by the Commissioner of School Education dated December 18, 2018, there is a clear bar for using of school infrastructure and premises for non-educational purposes, unless and until, prior permission is granted by the School Education Department.
6. It appears that the petitioners had filed an application for conducting a football tournament, which was negated by the authority. It is not clear as to on what ground it was negated. In any event, the football being a sport, the authorities could have considered it. However, this may not be a ground to reject the public interest litigation, since there are other persons, who have signed the mass petition and some of whom are also the writ petitioners.
7. Therefore, the objection regarding the *locus standi* of the petitioners stands overruled.

8. Considering the seriousness of the issue, since we are inclined to dispose of the writ petition without calling for affidavits and more particularly, when the persons, who have organized the fair/mela have not been impleaded, we direct the District Magistrate, Purba Medinipur to immediately send a set off officers to conduct an inspection of the area and examine as to whether any permission has been granted by the competent authority for conduct of commercial activity in a playground and if no such permission has been obtained, then appropriate instructions be given to all the authorities including the District Inspector of Schools (S.E.), Purba Medinipur, Tamluk to direct removal of all the sheds/sandy put up for conducting mela, trade fair etc. and ensure that the property of the school is not used for any non-educational purposes unless and until, the appropriate authority grants permission bearing in mind the public interest involved with regard to the said application.
9. With these above observations/directions, writ petition stands disposed of.
10. The above direction be complied with within a period of six weeks from the date of receipt of server copy of this order.
- 11.No costs.

12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)