

04.02.2026
Item No.10
Court No.11
KCP

**MAT 1516 of 2024
with
IA No. CAN 1 of 2024
with
IA No. CAN 2 of 2024**

**Sri Biswanath Ghosh
- Versus -
The State of West Bengal,
service through the Secretary,
Department of Secondary Education
& Ors.**

Mr. Himangshu Ghosh,
Mr. Hemanta Kr. Das,
Mr. Nepesh Majhi.
...for the appellant

Mr. Gourav Das,
Ms. Kalpita Paul.
...for the State

Ms. Koyeli Bhattacharyya,
Mr. Bibek Dutta,
Mr. Manas Bhattacharyya.
...for the W.B.B.S.E.

The present appeal has been preferred by the appellant as the Secretary of Gaccha Anushila Junior High School (hereinafter referred to as the said school) challenging the judgment dated 19th April, 2024 passed by the learned single Judge in the writ petition being WPA 14109 of 2019.

The said writ petition was preferred primarily challenging an order dated 4th October, 2018 passed by the President of the *Ad-hoc* Committee of the West Bengal Board of Secondary Education (in short, the

Board) contending *inter alia* that the Board ought to have considered the representation for grant of recognition of the said school as per the law prevailing in the year 1986 and not as per the West Bengal Board of Secondary Education (Recognition of Unaided Institution) Bye-laws, 2007 (in short, the 2007 Bye-laws).

The present appeal was taken up for consideration earlier on 10th November, 2025 and all the facts were recorded in the third paragraph of the said order. In the conspectus of the said facts, this Court *prima facie* observed *inter alia* that the finding returned by the Court to the effect that the ‘*prevalent law*’ has to be considered and understood as the law prevailing as on the date of submission of the application by the appellant, dated 2nd June, 2017, is not acceptable and directed the respondent no.4 to conduct an inspection and to file a report in the form of an affidavit detailing the number of students and teaching/non-teaching staff in the said school and also indicating the infrastructure of the said school and as to whether, the same is functioning. The Secretary of the Board was also directed to file a report annexing the relevant documents dealt with while issuing the order dated 4th October, 2018. Pursuant to such direction, the respondent no.4 and

the Board have filed reports. The same, as placed before this Court, are taken on record. Copies of the same have also been served upon Mr. Das, learned advocate appearing for the appellant.

The respondent no.4 in the said report had stated *inter alia* that pursuant to the order of this Court the respondent no.4 formed a Committee and conducted a physical inspection. Upon such inspection, it was found that a dilapidated building exists at the spot and there is no student or teaching/non-teaching staff in the said school. The Committee also enquired as to whether the said school is functioning from the local people, who submitted that the said school is closed for more than 15 years. The Board in its report has stated *inter alia* that at the time of considering the issue of recognition, a report was called for from the respondent no.4 and the same was filed on 27th August, 2018 *vide* memo dated 3rd October, 2018. Considering the said report and all other relevant documents a decision was taken by the competent authority on 4th October, 2018 directing the appellant to submit application for recognition in prescribed format as per the prevalent law.

Mr. Das, learned advocate appearing for the appellant strenuously argues that for the inaction on the part of the Board and the respondent no.4, the

school could not get recognition. Such dispute travelled up to the Hon'ble Supreme Court and the Board was directed to consider the issue of recognition of the said school afresh. The directions of the Hon'ble Supreme Court and the orders passed earlier had not been appropriately considered by the competent authority and as a consequence thereof, the school and the staff of the said school had been the worst sufferers. Let the supplementary affidavit as filed by Mr. Das, be kept on record.

Mr. Gourav Das, learned advocate appearing for the State respondents submits that the school is admittedly not functioning for a period of more than 15 years. There is no student in the said school and no teaching and non-teaching staff is serving in the said school. In view thereof, even in the event the DLIT inspection is held as per the rule existing prior to 2017, the same would be an idle formality inasmuch as, presently there is no existence of the said school.

Such argument of Mr. Gourav Das has been adopted by Ms. Bhattacharyya, learned advocate appearing for the Board and she further submits that by the order impugned in the writ petition, the Board, in fact, had directed the appellant to submit an application for the writ petition in the prescribed form

as per the '*prevalent law*'. In spite of such direction, no appropriate application has been filed.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, at present, no school is functioning in the concerned property. It appears from the report filed by the respondent no.4 that there is only existence of a dilapidated building. There is no student and no teaching staff/ non-teaching staff in the said school. The inspection report and relevant documents, in support of such contention, have been annexed to the report filed by the respondent no.4. In view thereof, even in the event any direction is issued at this stage to conduct a DLIT inspection as per the law prevailing on the date of initial application for recognition, the same would be an idle formality as presently there is no existence of the said school. Furthermore, from the order passed in the earlier round of litigation by a co-ordinate Bench of this Court on 12th February, 2009, it would be explicit that the submission of the appellant was that necessary steps need to be taken on the basis of the of the newly introduced provision being the 2007 Bye-laws.

In view thereof, no interference is called for in the present appeal.

The appeal and the connected stay application are, accordingly, dismissed.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)