

13.02.2026
Court No.13
Item No.7
pk

MAT 1795 of 2024
With
CAN 1 of 2024
CAN 2 of 2024
CAN 3 of 2024

Contai –I Panchayat Samity
Vs.
Bharati Ghosh and others

Mr. Sarwar Jahan,
Ms. Tapati Sarkar,
Ms. Shalini Sen,
Ms. Sahina Parvin

... For the appellant.

Mr. Swapan Kumar Datta,
Mr. Rajat Dutta,
Mr. Anirban Dutta

..for the State.

1. Despite service of notice, the respondents/writ petitioners are not represented before this Court. Affidavit of service filed in Court is taken on record.

2. CAN 2 of 2024 is an application for leave to appeal against the order dated 16th October, 2023 passed by the Single Bench of this Court.

3. Having regard to the facts and circumstances of the case and that the appellant/Contai –I Panchayat Samity was not impleaded as party respondent in the writ petition and also the fact that the proposed appellant came to know of the instant order in August, 2024 and the appeal was filed immediately thereafter

in September, 2024, this Court is inclined to grant leave to appeal to the appellant.

4. In the facts and circumstances of the case that are morefully narrated herein below, this Court finds that the appellant is vitally interested in the instant proceedings and was a necessary party thereto. The impugned order has been obtained without impleading the proposed appellant.

5. Hence, CAN 2 of 2024 is allowed and disposed of.

6. Having regard to the observations of this Court in CAN 2 of 2024, this Court is of the view that sufficient grounds are available to explain the delay in filing the instant appeal. The delay is condoned.

7. CAN 1 of 2024 is allowed and disposed of.

8. The impugned order dated 16th October, 2023 was obtained by the writ petitioners in WPA 15576 of 2023 claiming to be Sahayaks and Sahayikas of LOUDANDA Sishu Siksha Kendra (SSK) under Purba Medinipur Zilla Parishad. The SSK was discontinued by the Zilla Parishad as communicated vide letter dated 10th August, 2004 passed by the Secretary, Purba Medinipur Zilla Parishad to the BDO, Contai-I with effect from 1st May, 2004.

9. Consequently the engagement of the persons holding the post as Sahayaks and Sahayikas in the said SSK, therefore, stood automatically discontinued with effect from 1st May, 2004.

10. Despite the above, pursuant to some purported orders passed in WP 8184(W) of 2004, the BDO, Contai-I Development Block on 25th April, 2013 appears to have certified that the said LOUDANDA SSK is necessary and was running in perfect condition. The BDO very curiously appears to have quashed all practices and issues that were being carried out in the said SSK, contrary to the prevailing norms.

11. There appears to be a direction by the said BDO on the District Nodal Officer to release salaries and honorarium payable to the Sahayaks and Sahayikas being the writ petitioners in WPA 15576 of 2023. In the said order dated 25.04.2013 passed by the BDO, Contai-I Development Block, there is reference to an order dated 04.02.2010 passed by a Single Bench of this Court.

12. Mr. Jahan, learned counsel for the appellant submits that no such order is available in the server or records of this Court despite diligent search.

13. Even otherwise the procedure for establishment of a SSK is that the concerned Panchayet Samity makes a recommendation to that effect and the same is forwarded to the Zilla Parishad. The Zilla Parishad, in turn, after scrutiny of the recommendation of the Panchayet is required to forward the request to the Panchayet Department of the State. It is only after clearance of the Panchayet Department that the process of establishment of an SSK commences that too with the subsequent concurrence of the Zilla Parishad and the Panchayet Samity. In the instant case it is seen that the Zilla Prishad has discontinued the LOUDANDA SSK with effect from 1st May, 2004.

14. The BDO being the authority subordinate to the District Nodal Officer and the Zilla Parishad did not and could not have any authority to make any recommendation contrary to the Zilla Parishad's decision much less issue any direction on the District Nodal Officer.

15. The order dated 25.04.2013 passed by the BDO, Contai-I Development Block is ex facie illegal without the authority of law apart from being fraudulent. The said order dated 25.04.2013 is hereby quashed and set aside.

16. Having regard to the above, the impugned order dated 16th October, 2023 directing the BDO, Contai-I Development Block no. 1 to release any funds towards honorarium of the writ petitioners/respondents cannot be sustained in law, inter alia, for being obtained by fraud and suppression of material facts and non joinder of necessary parties.

17. The said order dated 16.10.2023 is set aside and the writ petition being WPA 15576 of 2023 is dismissed.

18. Accordingly, MAT 1795 of 2024 is allowed and disposed of. Consequently, all connected pending applications, if any, are also disposed of.

19. There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)