

Constitutional Writ

Present : The Hon'ble Mr Justice Jayanta Kumar Biswas

Judgment on : March 15, 2010

W.P.No. 5112 (W) of 2010

Subrata Maity

v.

The State of West Bengal & Ors.

POINTS:

Violation of Administrative letter---Administrative letter, whether Writ lies for violation thereof---Constitution of India, Article 226

FACTS:

The petitioner in this Article 226 petition is asking this court to make an order directing the Secretary of the Institute to act in terms of the letter of the District Inspector of Schools(S.E.) Purba Medinipur, a copy whereof was forwarded to the petitioner by a memo dated January 29, 2010.

The letter is an administrative letter written by the district inspector of schools giving administrative directions to the Secretary of the Institute.

HELD:

The letter is an administrative letter written by the District Inspector of schools giving administrative directions to the Secretary of the institute. The court is unable to see how by referring to the administrative directions the petitioner can maintain an Article 226 Petition and ask the High Court to issue a Mandamus commanding the institute to act in terms of the letter. If for the institute's inaction the petitioner suffered in any manner, then he was free to request the District Inspector of schools to take necessary steps so that the institute carried out his directions. The District Inspector of schools possessed all powers to compel the institute to carry out his directions. The High Court is not to execute his administrative directions under Article 226 of the Constitution.

Under the circumstances, there was no reason for the petitioner to rush to the High Court under Article 226 even without asking the district inspector of schools to see that his directions were carried out by the institute. In the opinion of the Court, the petition is a misconceived one.

----- PARA 2&3

Mr. Sk. Rejaul Alam, advocate, for the petitioner.

Mr. Subrata Mukherjee, advocate, for the State.

The Court:

1.The petitioner in this art.226 petition is asking this court to make an order directing the secretary of the institute to act in terms of the letter of the District Inspector of Schools(S.E.) Purba Medinipur, Annexure P6 at p.36, a copy whereof was forwarded to the petitioner by a memo dated January 29, 2010.

2.The letter is an administrative letter written by the district inspector of schools giving administrative directions to the secretary of the institute. I am unable to see how by referring to the administrative directions the petitioner can maintain an art. 226 petition and ask the high court to issue a mandamus commanding the institute to act in terms of the letter. If for the institute's inaction the petitioner suffered in any manner, then he was free to request the district inspector of schools to take necessary steps so that the institute carried out his directions. The district inspector of schools possessed all powers to compel the institute to carry out his directions. The high court is not to execute his administrative directions under art.226 of the constitution.

3.Under the circumstances, there was no reason for the petitioner to rush to the high court under art. 226 even without asking the district inspector of schools to see that his directions were carried out by the institute. In my opinion, the petition is a misconceived one.

For these reasons, the petition is dismissed. No costs. Certified xerox according to law.
sh (**Jayanta Kumar Biswas, J.**)