

Constitutional Writ
Present: The Hon'ble Justice Jayanta Kumar Biswas.
W.P.No.11160 (W) of 2010
Judgment on: June 11, 2010.
Sk. Nazrul Islam
v.
The State of West Bengal & Ors.

POINTS

Locus standi – Allegation of mis-appropriation of School Funds – Petitioner not being personally interested if has locus standi – District Inspector of schools if can make enquiry into the allegations – Constitution of India, Article 226.

FACTS

The petitioner claims to be a guardian of a student studying at Gutinagori Aloktirtha Vidyaniketan in Gutinagori of the district Howrah. According to him, the members of the managing committee and the headmaster of the institute, running the affairs of the institute, have misappropriated school funds, and hence the district inspector of school should make an enquiry and take necessary steps.

HELD

Admittedly, this is not a public interest litigation. There is no reason to say that even if the persons managing the affairs of the institute have misappropriated school funds, the thing cannot make the petitioner personally aggrieved. He does not suffer any personal loss or prejudice. A petition under art.226 of the constitution, other than a public interest litigation, can be filed only by a person aggrieved. Para 4

The district inspector of schools has not been empowered by any law to make enquiry into an allegation that persons running the affairs of a secondary school have misappropriated school funds. Under the circumstances, it cannot be said that by ignoring the petitioner's complaint

the district inspector of schools has failed to discharge his statutory or legal obligation or duty.

Para 5

The petitioner has no statutory or legal right to file a complaint before the district inspector of schools calling upon the district inspector of schools to make an enquiry into his allegation that the persons managing the affairs of the institute have misappropriated school funds. He filed the complaint in exercise of a non-existent right.

Para 6

Mr Debabrata Chakraborti, advocate, for the petitioner.

Mr Anil Kumar Chattopadhyaya,
advocate, for the ninth, twelfth, sixteenth, twenty-first & twenty- second respondents.

THE COURT: 1)The petitioner in this art.226 petition dated May 19, 2010 is seeking a mandamus commanding the respondents to make enquiry and take appropriate steps against the persons misappropriating school funds.

2)The petitioner claims to be a guardian of a student studying at Gutinagori Alokirtha Vidyaniketan in Gutinagori of the district Howrah. According to him, the members of the managing committee and the headmaster of the institute, running the affairs of the institute, have misappropriated school funds, and hence the district inspector of school should make an enquiry and take necessary steps.

3)The questions are what is the petitioner's locus standi, and whether the district inspector of schools is empowered to make any enquiry into the allegation.

4)Admittedly, this is not a public interest litigation. There is no reason to say that even if the persons managing the affairs of the institute have misappropriated school funds, the thing cannot make the petitioner personally aggrieved. He does not suffer any personal loss or prejudice. A

petition under art.226 of the constitution, other than a public interest litigation, can be filed only by a person aggrieved.

5)The district inspector of schools has not been empowered by any law to make enquiry into an allegation that persons running the affairs of a secondary school have misappropriated school funds. Under the circumstances, it cannot be said that by ignoring the petitioner's complaint the district inspector of schools has failed to discharge his statutory or legal obligation or duty.

6)The petitioner has no statutory or legal right to file a complaint before the district inspector of schools calling upon the district inspector of schools to make an enquiry into his allegation that the persons managing the affairs of the institute have misappropriated school funds. He filed the complaint in exercise of a non-existent right.

7)It seems to me that the petitioner is a meddlesome interloper. In my opinion, by filing this petition he has harassed the contesting respondents and abused the process of court. The petition is liable to be rejected.

8)For these reasons, I dismiss the petition ordering the petitioner to pay the managing committee of the institute Rs. 5,000 costs within a fortnight. Stay, prayed for, is refused. Certified xerox.

sh (Jayanta Kumar Biswas, J)