

**(2013) 08 CAL CK 0079**

**Calcutta High Court**

**Case No:** M.A.T. 1144 of 2013 and C.A.N. No. 7889 of 2013

Rooprehka Das (Minor)

APPELLANT

Vs

Loreto Day School Sealdah

RESPONDENT

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**Date of Decision:** Aug. 29, 2013

**Citation:** (2014) 1 CHN 564

**Hon'ble Judges:** G.C. Gupta, J; Anindita Roy Saraswati, J

**Bench:** Division Bench

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### **Judgement**

1. The writ petitioner's grievance was that she by her letter dated 15th August, 2012 requested the school to shift her to the stream of science so that she can pursue in future the desired career in computer science. The writ petitioner's grievance was that she was not permitted to do so. Mr. Kabir, learned Advocate for the respondent No. 3 submitted that the prayer was duly allowed with effect from February 2013. He submitted that the writ petitioner did, in fact, attend the classes between 11th February, 2013 and 28th February, 2013. Mr. Kabir in support of his submission relied on a copy of the attendance register.

2. The attendance register docs, in fact, show that the writ petitioner was present during the period between 11th February, 2013 and 28th February, 2013. But the veracity of the attendance register is not above suspicion considering that the name of the writ petitioner finds place not in the column of the attendance register but outside the column. Case of the school before the Trial Court was that she never attended the class during the year which is inconsistent with the contents of the register since disclosed. We however do not wish to go into the question as to the correctness of the submission made by Mr. Kabir that the writ petitioner attended the classes between 11th February, 2013 and 28th February, 2013. The school has already agreed to shift her to the stream of science. Therefore the writ petitioner should have no more any grievance in that regard. It was further submitted by Mr. Kabir that the father of the writ petitioner by his letter dated 16th May, 2013 requested the Principal of the School to promote his daughter, the writ petitioner

herein, to class XII. Mr. Kabir submitted that such promotion cannot be granted considering that she did not attend classes except for the period indicated above nor did she appear at the examination. She never passed the annual examination. Therefore without passing the annual examination the question of promoting her to class XII cannot arise.

3. We are of the opinion that this submission is quite reasonable. In that view of the matter, the writ petitioner shall continue to study in the class XI and in case she is successful at the annual examination to be conducted in March 2014 she shall be promoted. No question as regards any dearth of attendance shall be raised. The school shall extend necessary cooperation and shall also give necessary guidance in order to have the migration certificate registered with the appropriate authority.

4. It is not desirable to even come across a case of conflict between the teacher and the taught. This sort of a situation should be avoided as far as possible. Therefore we hope and trust that the school shall take such step as may be necessary to see that necessary assistance is granted to the writ petitioner to pursue her studies.

5. The order under challenge is set aside.

6. The appeal and the connected application are, thus, disposed of. Urgent xerox certified copy of this order, if applied for, be delivered to the learned Advocates for the parties, upon compliance of all formalities.

A. Saraswati, J.

I agree.