

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WA No.109 of 2024

Sri Himangshu Das, aged 39 years, son of Mihir Chandra Das, residence of Village Durgapur, P.O. Paiturbazar, District- Unakoti, Kailashahar, Tripura, Pin-799279.

..... Appellant(s)

V E R S U S

1. The State of Tripura to be represented by the Secretary, Department of Secondary Education, Government of Tripura, New Secretariat Building, New Capital Complex, Kunjaban, P.O. New Capital Complex, Agartala, West Tripura, Pin-799010.
2. The Director of Secondary Education, Government of Tripura, Office Lane, Agartala, West Tripura.
3. The President, School Management Committee, Ram Krishna Siksha Pratisthan, Kailashahar, Unakoti, Tripura, Pin-799277.
4. The Headmaster & Managing Committee Secretary, Ram Krishna Siksha Pratisthan, Kailashahar, Unakoti, Tripura, Pin-799277.
5. The Assistant Headmaster, Ram Krishna Siksha Pratisthan, Kailashahar, Unakoti, Tripura, Pin-799277.

..... Respondent(s)

For Appellant(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate.

For Respondent(s) : Mr. Karnajit De, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D PURKAYASTHA

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19/11/2024

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel and Mr. Kawsik Nath, learned counsel appearing for the Appellant. Also heard Mr. Karnajit De, learned Additional Government Advocate appearing for the State-respondents.

[2] Petitioner, while serving as a Postgraduate teacher at Ramkrishna Siksha Pratisthan, Kailashahar, Unakoti, Tripura, a Grant-in-Aid School, since 21st July, 2008, attended and acquired two years B.Ed degree through Open Distance Learning Mode (ODL) from ICFAI University, Tripura during the academic years 2018-2019 & 2019-2020 without seeking formal permission to enroll and acquire the B.Ed degree from the employer. Upon completion of the course, he made a request for entry of his additional qualification in the Service Book which was not accepted. Therefore, he approached the Writ Court in WP(C) No.431 of 2023.

[3] The respondent-State in particular filed a counter affidavit taking a clear stand that petitioner has recorded attendance throughout this period in the school. It is difficult to understand as to how he attended the examination in the month of August when his attendance in the school register was full. He did not submit his examination routine to his authority. Respondent-State authorities further made a categorical statement that petitioner did not take any prior permission from the authority for pursuing his B.Ed degree course through open distance mode during the said session. He also did not take any station leave permission from the authority or any admissible leave to attend the examination. He did not submit any application to the school authority for availing leave/station leave to attend the mandatory face to face contact session/classes of ICFAI University.

[4] Taking note of the rival submissions and stand of the parties, the learned Writ Court dismissed the writ petition in the following manner:

“Having considered the submission as advanced by the learned counsel for the parties and also having perused the record, this court is of the opinion that the petitioner has not approached this court with clean hands as he did not take any prior permission from the authority for obtaining NOC for pursuing his B.ED degree course.

Moreover, the petitioner took an experience certificate from Asst. Head Master which any teacher can take from Asst. Head Master concealing his motto behind it. It appears to this court that the petitioner for his own interest has fabricated the story which cannot be trusted even after applying any conscience. Hence, this is a fit case for dismissal.

With the above observation, the instant petition stands dismissed being devoid of merit. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

[5] Mr. P. Roy Barman, learned senior counsel for the petitioner during course of his submission has drawn the attention of this Court to the letter dated 25.02.2022 (Annexure-11) addressed to the Joint Director, Directorate of Secondary Education by the Secretary, Managing Committee, Ramkrishna Siksha Pratisthan School. This letter however also categorically states that petitioner had not taken permission from the Secretary, Managing Committee before admission in the B.Ed course. Learned senior counsel for the petitioner has also drawn the attention of this Court to the request for exemption made to the returning officer of the Zila Parishad and DM & Collector, Unakoti District for granting him exemption from attending the election process as he was scheduled to attend a workshop of the B.Ed (ODL) course of ICFAI University between 23rd July 2019 to 26th July 2019. He had to submit assignment on 27th July and the exams were to start from 1st August onwards. It is submitted that this request was also forwarded by the Assistant Headmaster of the school and exemption was granted.

[6] Learned senior counsel for the petitioner has also referred to the practice teaching assignments which are at (Annexure-4) in order to submit

that it was within the conscious knowledge of the Assistant Headmaster and the Secretary of the Managing Committee of the Ramkrishna Siksha Pratisthan School that he was attending B.Ed course through ODL mode during this period. Learned senior counsel for the petitioner submits that no teaching work has been affected on account of attending the B.Ed course through ODL mode. However, it is not disputed that petitioner did not make any formal request to the competent authority of the school or the State Government to apply for undertaking the B.Ed course through open distance learning mode. However, he submits that petitioner's labour and effort would be in vain if the acquisition of the B.Ed degree is not entered into his service book. This amounts to a punishment. Learned senior counsel for the petitioner, however, has not been able to show any provision under which such a requirement can be waived.

[7] Mr. Karnajit De, learned Additional Government Advocate appearing for the respondents-State has strongly opposed the prayer. He has referred to the contents of the counter affidavit filed by them before the learned Writ Court and also the impugned order. Learned counsel for the State submits that petitioner never took permission from the competent authority for enrollment in the B.Ed degree course which is a mandatory requirement. Petitioner is serving the school as a teacher and avails the Grant-in-aid provided by the State to the school in question. A regular employee of any such institution funded by the State cannot take up any part-time job or any other assignment or enroll in any course without a formal permission from the employer. Moreover, the relevant facts are quite

stark since even during the period of his examination, the petitioner had full attendance in the school. It is also pointed out that 1st August, 2019 was Thursday and was not Sunday on which there is no school work. As such, learned Writ Court did not commit any error by refusing to interfere in the matter. The present appeal, therefore, deserves to be dismissed.

[8] Learned senior counsel for the petitioner submits that at paragraph 6 of the rejoinder affidavit it has been stated that the examination scheduled on 1st August, 2019 was deferred. Ordinarily, examinations are held on weekends. He also submits that petitioner may be allowed to seek post facto approval for pursuing the B.Ed Course through ODL mode.

[9] We have considered the submissions of learned counsel for the parties and taken note of the relevant materials placed from record. We have also gone through the impugned judgment. It is trite that a regular employee like the petitioner who was serving as a teacher in a Grant-in-aid school i.e. Ramkrishna Siksha Pratisthan School, Kailashahar, Unakoti Tripura is required to obtain formal permission from the employer/competent authority to engage in any course whether fulltime/part-time or open distance learning course or also take up any other assignment or part-time job. Upon acceptance of the offer of appointment to a regular post, the employee/petitioner, a teacher, is in the fulltime employment of the concerned organization. There is a salutary purpose behind it. A regular employee of State or its instrumentality or any such organization cannot engage in other activities which is not permissible without permission of the employer.

[10] The learned Writ Court has dealt with the relevant factual aspects of the matter which reveal that during the entire period, petitioner had recorded full attendance in the school and had not taken any leave to attend the exam of the open distance learning course run by the ICFAI University. Permission to engage in a B.Ed course through open distance learning cannot be implied even if the endorsements on the work assignment chart of the petitioner by the Assistant Headmaster of the Ramkrishna Siksha Pratisthan School and Secretary of the said School are taken into consideration.

[11] In those circumstances, we do not find any error in the impugned judgment calling for interference. Accordingly, the writ appeal is dismissed. However, petitioner is at liberty to seek post facto approval for pursuing the B.Ed Course through ODL mode, if permissible in law.

Pending application(s), if any, also stands disposed of.

(S.D PURKAYASTHA) J

(APARESH KUMAR SINGH) CJ

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