

Serial No.05
Supp. List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 189 of 2023

Date of Decision :03.04.2024

Shri. Phlanstar Kharsohnoh,
S/o (L) K.Kharchandi,
R/o Umsawmat, P.O.Lyngiong,
East Khasi Hills District, Meghalaya.

...Petitioner

-Vs-

1. State of Meghalaya represented by the
Commissioner and Secretary,
Education Department,
Government of Meghalaya.
2. The Sub Divisional School Education Officer,
Shillong, East Khasi Hills District, Meghalaya.
3. The Managing Committee represented by the
Secretary, Umsawmat L.P.School,
East Khasi Hills District, Meghalaya.
4. Shri. Lamang Manik Sing Syiem,
Enquiry Officer,
C/o High Court of Meghalaya Bar Association,
East Khasi Hills District,
Shillong – 1 , Meghalaya.

...Respondents.

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. N.Syngkon, Adv.
Ms. L.Phanjom, Adv.

For the Respondent(s) : Mr. P.Yobin, Adv. for R 3.
Mr. W.Bunnud, Adv. for R 4.
None for R 1 & 2.

- | | | |
|-----|--|--------|
| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
-

JUDGMENT AND ORDER (ORAL)

1. The petitioner who is stated to be an Assistant Teacher in Umsawmat Presbyterian L.P.School is before this Court assailing his order of termination dated 17-05-2023. The grounds set up by the writ petitioner are that the termination was per se illegal, as the impugned order of termination was issued illegally in violation of the prevailing law and without initiating departmental proceedings against him.

2. Mr. N.Syngkon, learned counsel for the petitioner has submitted that if the termination is to be approved and implemented, the same was to be

by the Deputy Inspector of Schools & Assistant to Administration-I Primary Schools KHADC, Shillong. He has further submitted that no approval was ever obtained from the competent authority before the termination and as such, the termination order is liable to be set aside.

3. Mr. P.Yobin, learned counsel for the respondent No. 3 in his reply has placed his affidavit, and drawn the attention of the Court to Annexure-7 of the affidavit-in-opposition, wherein the Sub-Divisional School Education Officer, Shillong by a letter dated 16th May, 2023, had approved the termination of the writ petitioner. Subsequently he submits, the Managing Committee then issued the termination order. He further submits that prior to the inquiry proceedings which were initiated against the writ petitioner, a show cause dated 22-03-2023, which also indicated the name of the Inquiry Officer was also served upon the writ petitioner, which was duly received. He then submits that after the conclusion of the inquiry proceedings, the writ petitioner having not put up any defense, due process was carried out and the petitioner was terminated from his services.

4. I have heard learned counsel for the parties. At this stage, it is important to note that this matter had come up before this Court earlier by way of WP(C). No. 52 of 2019, wherein this Court while disposing of the same by order dated 12-09-2022, had directed at paragraph 9 and 10 as follows:

“9. Accordingly, though a lot of water has passed under the bridge and without going further into the competing rights and entitlements of the petitioner, the respondent No. 3 is directed to accord an opportunity of hearing to the writ petitioner, which shall be completed most expeditiously within a period of 2(two) months from the date of receipt of a certified copy of this order. It is also directed that the statement of allegations should be clear and concise and show cause thereto be specific to the said allegations.

10. Needless to add, it is expected that the respondents will look into the matter in an unbiased manner. Liberty is also given to the respondent No. 3 to appoint an independent Inquiry Officer.”

5. It appears from the materials placed that the inquiry was then conducted and the writ petitioner participated in the same and has not refuted or rebutted any of the allegations made therein. In this view of the matter, no irregularity or illegality is present in the process which has been gone into, with regard to termination of the writ petitioner.

6. However, it is unfortunate that while presenting the writ petition, there has been suppression of material facts, with regard to the serving of show cause and the fact that approval had been obtained before the termination order was issued. Furthermore, the submissions advanced before this Court that the competent authority had not granted approval, inasmuch as, it was the Inspector of Schools which was to do the same, is misplaced and incorrect, as it is well known that such an office is not existing today and the competent authority in such matters is the SDSEO.

7. As such, there being no merit in the writ petition, the same therefore is accordingly dismissed.

Judge

Meghalaya
03.04.2024
"Samantha PS"