

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:

The Hon'ble Mr. Justice Ravi Krishan Kapur

WPA 27510 of 2017

Siddhartha Das

-vs-

State of West Bengal & Ors.

For the petitioner : Mr. Soumen Kr. Datta,
Mr. Sabyasachi Bhattacharjee,

For the respondent nos.6 : Mr. Uttam Kr. Bhattacharjee,
and 7 Mr. Kaustav Mishra,

Heard on : 13.01.2020

Judgment on : 30.09.2020

Ravi Krishan Kapur, J.:

1. This petition has been filed assailing an order of termination dated 25th September, 2017 issued by the Trust Committee, Gyandeeep Vidyapith (the school).

2. The petitioner is a part-time computer teacher in a privately managed self-financed school namely Gyandeeep Vidyapith. The school is organized

and managed by the Gyandeep Trust. The school has been recognized by the West Bengal Board of Secondary Education as a Junior High School.

3. It is alleged by the petitioner that he had been appointed on 2nd February, 2002 and has been serving as a part-time computer teacher for a continuous period of 15 years. The petitioner further alleges that on 18th April, 2017 a notice was issued by the Head Master upon the petitioner, restraining the petitioner from attending the school until further orders. The petitioner immediately sought for reliefs from the Secretary of the school and assailed the letter issued by the Head Master. Thereafter, the Secretary of the school issued a show-cause notice upon the petitioner for inappropriate and unethical behaviour towards the Head Master of the school pertaining to refusal of the school authorities to permit the petitioner to supply new computers. The petitioner was requested to reply to the show-cause notice. By a letter dated 15th May 2017, the petitioner replied to the school authorities denying all allegations levelled against him. Subsequently, the Managing Committee of the school after having considered the reply of the petitioner and finding the same to be unsatisfactory issued a charge-sheet dated 30th

June, 2017 to the petitioner. By a reply dated 14th July, 2017 the petitioner replied to the show-cause notice.

4. The petitioner had also unknown to the school, been appointed as a contractual computer teacher in the vocational section at the Jahalda High School, Paschim-Medinipur since 2013-14. Accordingly, a supplementary charge-sheet was served upon the petitioner alleging that the petitioner had been working as a contractual computer teacher at the Jahalda High School and as a part-time computer teacher of the school and had also been taking salaries from both the institutions simultaneously which amounted to gross misconduct on the part of the petitioner. Subsequently, the school alleged that on 18th November, 2017 the school received a confirmation from the Head Master, Jahalda High School (H.S.) stating that the petitioner had been working as a contractual computer teacher in that school since 2006 and had been attending his duties on all weekdays since 2013-14. The petitioner replied to the supplementary charge-sheet and alleged that there was no disturbance in the taking of classes simultaneously at both the schools.

5. By a letter dated 30th August, 2017 submitted by the petitioner, the petitioner also unconditionally apologized to the school for his misbehaviour. On receipt of the aforesaid letter dated 30th August, 2017, the Managing Committee of the school unanimously decided to confirm the termination of the petitioner.

6. It was submitted on behalf of the petitioner that the petitioner was lawfully appointed by the school and the impugned letter of termination is without authority of law and unjustified in the facts and circumstances of the case. It was further alleged on behalf of the petitioner that the letter of appointment also made it clear that no teaching or non-teaching staff could be terminated without being given an opportunity to be heard by the Competent Authority. The petitioner further alleged that, in the facts and circumstances of the case, a Disciplinary Committee consisting of five members ought to have been constituted and should have adjudicated the question of misconduct, if any. The petitioner also challenged the authority of the Trust Committee of the school to issue any show-cause notice. It was further alleged on behalf of the petitioner that the fact that the petitioner was working at

the Jahalda High School was in no way detrimental to his services as a part-time teacher of the respondent school.

7. It was contended on behalf of the respondent that there were no grounds whatsoever to challenge the impugned notice of termination. The behaviour of the petitioner was unacceptable and it was in the welfare of the school and in its best interests that the services of the petitioner be terminated. It was further alleged on behalf of the respondent school that there was no violation of the principles of natural justice and all the representations of the petitioner were duly considered by the respondent authorities. It was further alleged on behalf of the respondent school that the fact that the petitioner was simultaneously working at the Jahalda High School was suppressed from the school authorities and was in violation of law. It was further contended on behalf of the respondent school that the petitioner was not an approved nor regular staff member and no selection process had been followed in the appointment of the petitioner.

8. I have heard the parties at length and have also taken into consideration the respective Notes of Arguments filed by them. At the outset, it is

important to clarify that notwithstanding the fact that the petitioner alleged that he was given a letter of recognition at the time of appointment it appears from the affidavit-in-opposition filed by the respondent no.7 that the petitioner was orally appointed and was never issued any letter of recognition. On the contrary, the petitioner appears to have been engaged as a pre-choice candidate without any selection process being followed. On a perusal of the pleadings, I am also of the view that the petitioner has been unable to demonstrate that he was engaged as an approved staff of the school against an approved post by the Board in a regular manner for an approved subject. Accordingly, the petitioner cannot be treated as a regular teacher of the school.

9. A crucial allegation against the petitioner was that the petitioner was simultaneously working as a contractual vocational teacher at the Jahalda High School without any intimation to the Managing Committee of the school. Annexure R-3 to the affidavit-in-opposition filed on behalf of the respondent nos.6-8 is a letter written by the Head Master of Jahalda High School which categorically records that the petitioner had been attending his duties at Jahalda High School on all working days

since 2013-2014. It is therefore evident that the petitioner was holding dual offices both at the school as well as at the Jahalda High School. Significantly, the petitioner was unable to controvert the allegation of dual employment raised by the respondent school authorities. This is an indisputable and uncontroverted fact.

10. I also do not find that there is any violation of the principles of natural justice in the procedure adopted by the respondent school. The petitioner was given an adequate opportunity. There is no material to show that there was any illegality, perversity, unreasonableness, unfairness or irrationality in the impugned action taken by the respondent authorities.

11. After having considered the affidavits and the rival claims of the parties, I am of the view that the petitioner has been unable to show any ground whatsoever warranting any interference with the impugned notice of termination. The petitioner is guilty of suppression of facts and had not disclosed the factum of his dual employment with the school authorities. There is no arbitrariness or illegality or perversity or violation of any principle of natural justice or contravention of any law in the decision making process adopted by the school authorities. The legal position is

settled that judicial review is not so much concerned with the correctness of the ultimate decision as it is with the decision making process.

12. In view of the aforesaid, I find no reason to interfere with the impugned letter of termination. WPA 27510 of 2017 is dismissed. However, there will be no order as to costs.
13. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Ravi Krishan Kapur, J.)