

W.P.A. No. 855 of 2021

***Monjurul Sarkar
Vs.
The State of West Bengal & Ors.***

Mr. Bikash Chandra Das
..for the petitioner
Mr. Malay Singh
Mr. Raja Ram Banerjee
..for the State
Mr. Supriyo Chattopadhyay
Ms. Iti Dutta
..for the DPSC

Affidavit-of-service filed in Court today is kept with the record.

Learned Counsel appearing for the petitioner draws attention to this Court of the impugned memo being no. 1556/1 (12) dated 6.3.2020 issued by the Chairman, District Primary School Council, Dakshin Dinajpur suspending the petitioner on and from 20th January, 2020 or until further order as he was in jail custody for more than 48 hours. According to the petitioner, Rule 7 of West Bengal Primary Education (Conduct of Service of Teachers of Primary Schools) Rule, 2001 reads as follows:-

- 1) DPSC may place a teacher under suspension:
 - a) When enquiry by disciplinary authority u/r 9 (1);
 - b) Where a case of criminal offence involving moral turpitude against the teacher is under investigation or trial.
- 2) Where a teacher is detained in custody for a period of exceeding 48 hours on a criminal charge or otherwise; he shall be deemed to have been suspended by an order of the appointing authority, w.e.f. the date of detention and shall remain under suspension until further order.

Reading Rule 7, it is clear that after suspension an order has to be passed by the Chairman for withdrawal of detention or suspension, but till date no such order has been passed by the Chairman.

Learned Counsel further submits that a representation was made by him on 19th February, 2020 but that representation has not been considered till date.

Mr. Chattopadhyay, learned Counsel appearing for the District Primary School Council relies on a decision of the Division Bench of our High Court, reported in 2009 (1) CHN 476 in “Birbhum District Primary School Council & Anr. Vs. Md. Mokhtar Hossain & Ors” and submits that the procedure laid down in this judgement should be followed, while considering the representation of the petitioner by the Chairman, District Primary School Council, Dakshin Dinajpur.

Heard both the parties.

As the representation dated 19th February, 2020 has not been considered by the Chairman, District Primary School Council, Dakshin Dinajpur till date, the learned Chairman, District Primary School Council, Dakshin Dinajpur is requested to consider the representation of the petitioner dated 19th February, 2020, after giving an opportunity of hearing to the petitioner and to allow the petitioner to produce all relevant documents at the time of hearing and pass a reasoned order within 6 (six) weeks from the date of

communication of this order to the Chairman, District Primary School Council, Dakshin Dinajpur. The Chairman, District Primary School Council, Dakshin Dinajpur is also requested to communicate the reasoned order to the petitioner at an earliest.

Learned advocate on record of the petitioner is also requested to serve a copy of this writ petition to the Chairman, District Primary School Council, Dakshin Dinajpur along with the order of this Court positively within 7 (seven) days from today.

The writ petition being WPA No. 855 of 2021 is, accordingly, disposed of.

Since no affidavits have been invited, the allegations made in the writ petition are deemed to have been denied by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties on the usual undertakings.

(Rajarshi Bharadwaj, J.)