

Court No. 17

WPA 1990 of 2020

02.12.2021

(AD 1)

(S. Banerjee)

Nitai Mandal

Vs.

The State of West Bengal & Ors.

with

CAN 1 of 2021

(Via Video Conference)

Mr. Pratik Dhar, Sr. Advocate

Mr. Goutam Dey

Mr. Rajesh Naskar

Mr. Dipendu Sarkar

... for the petitioner

Mr. Biswabrata Basu Mallick

Mr. Sanjib Das

... for the State

Ms. Koyeli Bhattacharya

... for the WBBSE

Mr. Kamalesh Bhattacharya

Mr. S. Pahari

Mr. A. Pradhan

Mr. Tapan Kumar Mahapatra

... for the respondent no. 6

The petitioner rejoined as headmaster after the order passed by this court and he has already retired.

Today at the time of hearing learned advocates for all the parties drew my attention to an order dated 04.10.2016 passed by this court in WP 13258(W) of 2016 with WP 4933(W) of 2016 wherein in WP 13258(W) of 2016 directions were passed by this court which, inter alia included that “without leave of the court the disciplinary authority will not take any step on the basis of the report would be submitted by the enquiry officer.” The enquiry officer was appointed by the District

Inspector of Schools by the order of the court on the same day. The enquiry officer was one Additional District Inspector of Schools (SE), Purba Medinipore who submitted his hearing report dated 27.11.2017 which has been challenged by the writ petitioner/headmaster here but before that WP 13258(W) of 2016 was withdrawn by the petitioner with WP 4933(W) of 2016 on 09.12.2019. Those two writ applications were disposed of as not pressed and all interim orders were vacated.

As all interim orders were vacated, the interim order quoted above was also vacated.

Therefore, now there is no reason for the disciplinary authority to take step with the leave of the court.

My attention has been drawn to one observation of the enquiry officer where he has stated that the headmaster of the school submitted his reply against the charge-sheet to the Secretary of the school on 18.02.2016. The disciplinary authority was interjected by order of this court from taking any further step, meaning thereby the steps subsequent to filing of the reply to charge-sheet.

Now by order of this court the petitioner has joined as headmaster and he has retired on 30th November, 2021. These facts have already been recorded. In the meantime he has got the subsistence allowance by order of this court also.

Considering the facts and circumstances of the case and considering the submissions made by the

parties today before this court, I direct the West Bengal Board of Secondary Education to take further steps from the stage where the disciplinary authority was stopped by the order of this court.

I am told today by learned advocate Mr. Bhattacharya that the school sent the charge-sheet and the reply thereto to the Board for its approval.

Learned advocate for the Board, Ms. Bhattacharya, has submitted that no step thereafter has been taken because of the order passed by this court on 04.10.2016.

The parties, being the school and the writ petitioner shall have the liberty to file all the papers before the Board before they are called for granting opportunity of hearing to them by the Board.

Now I dispose of this writ application by directing the Board to take further steps after considering the charge-sheet and the reply thereto and after giving opportunity of hearing to the school, to the District Inspector of Schools and to the writ petitioner and to communicate its decision to all concerned so that the school authority can take steps accordingly.

The Board shall not grant liberty to the parties to be represented by their learned advocates.

The decision of the Board is to be taken within a period of three months from the date of communication of this order and the decision is to be communicated by three weeks thereafter.

With this direction this writ application is disposed of.

With the disposal of the main writ application the connected application, being CAN 1 of 2021, has become infructuous and thus the same is also disposed of.

(Abhijit Gangopadhyay, J.)

Later:

After this order is passed, learned advocate Mr. Bhattacharya has drawn the attention of this court stating that learned advocate for the school was not representing the respondent no. 7 and in the order dated 25.11.2021 it is to be understood that the learned advocate for the school did not represent the respondent no. 7.

(Abhijit Gangopadhyay, J.)