

Ct. 05
Item No.13
15.09.2021
(suvendu)

WPA 12882 OF 2021

(VIA VIDEO CONFERENCE)

Buddhadeb Das
Vs.
The State of West Bengal & Ors.

Mr. Arjun Ray Mukherjee
Ms. S. Mukherjee

.....for the petitioner

Mr. Jahar Lall De
Mr. Somnath Naskar

.....for the State

Mr. Khairul Alam

.....for the respondent

no.4

The writ petitioner is an Assistant Teacher of Panchpara High Madrasah (H.S.), Howrah (for short, "said Madrasah") and being entangled in a criminal proceeding, he was detained in custody for the period from 10th May, 2021 to 15th July, 2021. Subsequently he was released on bail. In view of the entanglement of the writ petitioner in a criminal proceeding, the writ petitioner has been placed under deemed suspension in terms of Rule 28(3) of the Management of Recognised Non-government Madrasah (aided and non-aided) Rules, 2002 (for short, "said Rules of 2002"). In this regard, letter dated 25th March, 2021 was

issued by the Secretary, West Bengal Board of Madrasah Education addressed to the Teacher-in-Charge of the said Madrasah, whereby the said Madrasah authority was directed to issue suspension order against the writ petitioner considering the detention of the writ petitioner in custody. The writ petitioner prays for subsistence allowance during the period of suspension in terms of the Rule 28(6) of the said Rules of 2002.

Mr. Alam, learned advocate appears on behalf of the concerned Madrasah authority and submits that the writ petitioner was detained in custody in view of the petitioner's involvement in commission of an offence in discharge of his duty as an Assistant Teacher in the said Madrasah. It has also been submitted that the petitioner has been placed under suspension in terms of the Rule 28(3) of the said Rules of 2002 and charge-sheet has already been issued against the petitioner on 6th September, 2021. Mr. Alam submits before this Court that in view of the nature of offence alleged to have been committed by the writ petitioner while acting as approved teaching staff of the said Madrasah, order relating to release of subsistence allowance may not be passed without granting opportunity of filing affidavits in the matter.

This Court has considered the submissions made by the learned advocates representing the writ petitioner as well as concerned Madrasah authority and also the State respondents. This Court has also considered the relevant provisions of Rule 28(6) of the said Rules of 2002 which contemplates payment of subsistence allowance during suspension of any approved teaching or non-teaching staff in Madrasah including deemed suspension due to detention of the employee of Madrasah. It appears that already disciplinary proceeding has been initiated against the writ petitioner upon issuing charge-sheet dated 6th September, 2021 and the same is pending before the concerned respondent authorities for bringing the same into logical conclusion. This Court on appreciation of the provisions as contained in Rule 28(6) of the said Rules of 2002, finds it fit to give necessary direction for releasing subsistence allowance to the writ petitioner during the period when he is kept under suspension subject to the final result of the criminal proceeding as well as disciplinary proceeding pending against the writ petitioner.

Accordingly, the concerned authority of Panchpara High Madrasah (H.S.), Howrah, being the respondent nos. 3 and 4, as well as the

District Inspector of Schools (SE), Howrah, being the respondent no. 2, are directed to take necessary steps for payment of subsistence allowance to the writ petitioner upon compliance of necessary formalities and on submission of non-employment certificate by the writ petitioner before the appropriate authority. The said respondent authorities are also directed to release the arrear subsistence allowance to the writ petitioner. Such exercise shall be carried out by the respondent authorities at an early date but not later than eight weeks from the date of communication of this order.

Accordingly, the writ petition is disposed of without any order as to costs.

Affidavit of service filed in Court today is taken on record.

All parties to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

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

(Saugata Bhattacharyya, J.)