

Item No.3

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

16.09.2021
Ct-24

WPA 13267 of 2021
Soumen Sarkar
v.
The State of West Bengal & Ors.

Mr. Kallol Basu,
Mr. Suman Banerjee,
Mr. Arnab Sinha
... for the petitioner

Mr. Nilotpal Chatterjee,
Dr. Madhusudan Saha Roy
... for the University of Calcutta.

Mr. Amalesh Roy
.. for respondent No. 7 to 9

Mr. Saptangshu Basu, Sr. Adv.
Mr. Tanoy Chakraborty,
Ms. Sumitra Das
... for respondent No. 10

Mr. Subir Sanyal,
Ms. Kasturi Tarafdar
... for the respondent No. 11

Mr. Anil Kr. Gupta
... for U.G.C.

Ms. Chaitali Bhattacharjee
Ms. Sanjukta Samanta
... for the State respondents.

The petitioner is an Associate Professor, Department of Economics, Vidyasagar College. A complaint was lodged against him by one of the female faculty of the said college. The complaint was taken up for consideration by the Internal Complaints Committee (ICC) of the College and certain decisions were passed by the said Committee.

The petitioner is aggrieved by the constitution of the ICC. An element of bias, according to the petitioner, is evident by the members of the ICC, two of whom are the members of the Governing Body of the College.

The allegation of the petitioner was that the complaint was not served upon him and no proper opportunity of hearing was given to him.

The learned advocate representing the petitioner submits that the complaint does not disclose any offence enumerated under Section 2(n) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The learned advocate representing the College denies the submission made on behalf of the petitioner.

The learned advocate appearing on behalf of the College submits that the complaint was forwarded to the petitioner and proper opportunity of hearing was given to him to defend himself.

The final order passed by the ICC was placed before the Court. The Court has got the opportunity to peruse the resolution taken by the Governing Body of the College at the time of constitution of the ICC.

Though, it appears that the said ICC was constituted in accordance with the resolution of the Governing Body, but since the petitioner has certain reservation with regard to the members of the Governing Body being the members of ICC, accordingly, to dispel the allegation of bias, the Governing Body of the College is directed to reconstitute the ICC, so as to ensure that the members of the Governing Body are not the members of the ICC.

The petitioner shall be given a proper opportunity of hearing to defend himself and the ICC shall take all steps to enquire and dispose of the complaint which has been filed by the complainant strictly in accordance with the provisions of law, at the earliest, but positively within December 30, 2021.

The ICC will be at liberty to take a decision whether the complaint filed by the complainant can be dealt with under the provisions of the aforesaid Act of 2013.

The final report prepared by the ICC is accordingly set aside.

The Governing Body of the College shall take necessary steps to reconstitute the ICC positively within a period of ten days hereof.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)