

13 04.10.2021
rkd Ct.05

W.P.A. 15020 of 2021
(Through Video Conference)

Bhriguram Dolui
-vs-
The State of West Bengal & Ors.

Mr. Sudipta Dasgupta

....for the petitioner.

Ms. Koyeli Bhattacharyya

....for the W.B.B.S.E.

Mr. Sakya Maity,
Mr. Subhas Jana,

....for the respondent no.9.

Md. T.M. Siddiqui,
Mr. N. Chatterjee

....for the State.

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

Writ petitioner is an approved assistant teacher working in Shibrampur Nanilal Vidyapith, District-Kolkata (for short 'said school'). The grievance of the writ petitioner is that by issuing letter dated 26th July, 2019 the headmaster of the said school abruptly withdrew annual incremental benefits which was payable to the writ petitioner with effect from July, 2019.

Mr. Dasgupta, learned advocate appears on behalf of the writ petitioner and submits that no formal proceeding has been initiated against the writ petitioner prior to withdrawal of such annual incremental benefits. Petitioner prays for expeditious sanction of incremental benefits which

was stopped with effect from July, 2019.

Mr. Maity, learned advocate appears on behalf of the respondent no.9 who issued the impugned letter dated 26th July, 2019 thereby withdrawing the annual incremental benefits of the writ petitioner and submits that in terms of substituted Rule 23A of the notification dated 8th March, 2018, head of the institution is authorised to grant annual increment to the teachers and non-teaching staff on satisfactory service. Upon placing reliance on said substituted Rule 23A it has been submitted that the head of the institution is also empowered to withdraw annual increments.

Mr. Siddiqui, learned advocate appears on behalf of the State respondents and submits that in terms of substituted Rule 23A head of the institution is empowered to grant annual increments but no power was granted to the head of the institution to withdraw the annual increments without following the appropriate procedure and without valid resolution of the Managing Committee of the Institution. He has also drawn attention of this Court to Memo dated 1st October, 2019 issued by the Deputy Secretary (Academic), West Bengal Board of Secondary Education whereby the concerned District

Inspector of Schools (SE), Kolkata has been requested to take necessary steps in this matter.

Considering the submissions made on behalf of the learned advocates representing the parties to this writ petition this Court finds that the then headmaster of the said school, respondent no.9, issued the impugned letter dated 26th July, 2019 whereby annual incremental benefits of the writ petitioner was withdrawn with effect from July, 2019 unilaterally without initiating any proceedings against the writ petitioner. In support of such letter dated 26th July, 2019 no contemporaneous resolution of the Managing Committee, as it appears, was adopted empowering the respondent no.9 to take such punitive action against the writ petitioner. Though in terms of substituted Rule 23A power has been given to the head of the institution to grant incremental benefits there is no specific power given to the head of the institution to unilaterally withdraw the incremental benefits of assistant teacher without initiating disciplinary proceeding. The decision taken by the respondent no.9 as per the said letter dated 26th July, 2019 appears to be punitive and should not have been taken by respondent no.9 without following due procedure of law. Accordingly, the said impugned

letter dated 26th July, 2019 is set aside. The authority of Shibrampur Nanilal Vidyapith, District-Kolkata is directed to grant yearly incremental benefits to the writ petitioner with effect from July, 2019 and forward the necessary papers to the respondent authorities for possessing the claim of the writ petitioner towards annual incremental benefits for completing the formalities. In any event, the respondent authorities are directed to grant such incremental benefits to the writ petitioner expeditiously but not later than twelve weeks from the date of communication of this order.

With the above direction, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

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

(Saugata Bhattacharyya, J.)