

S/L 16
12.01.2021
Court No.26
SD

**WPA 17033 of 2019
(Via Video Conference)**

Rita Samanta
Vs.
State of West Bengal & Ors.

Mr. Ritzu Ghoshal
Mr. Sourabh Maitra

...for the Petitioner.

Mr. Supriyo Chattopadhyay
Mr. Sabyasachi Mondal

...for the State.

Mrs. Koyeli Bhattacharya

...for the Board.

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by a show cause notice dated August 5, 2019 issued by the disciplinary authority, West Bengal Board of Secondary Education (hereinafter called as 'Board').

The contention of Mr. Ritzu Ghoshal, counsel appearing on behalf of the petitioner, is that the preliminary investigation that has been carried out against the petitioner is reflected as an inquiry report in the show cause. According to him, the inquiry report is required to be given to the petitioner and only thereafter proceeding can be initiated against him.

Mrs. Koyeli Bhattacharya, counsel appearing on behalf of the Board, submits that the preliminary investigation is not an inquiry report and does not require to be shared with the petitioner.

She has placed on record Rule 5 of the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching staff) Rules, 2018 (hereinafter referred to as the 'said Rule of 2018') to indicate that after the preliminary investigation report, show cause notice is issued that gives opportunity to the petitioner to file his reply. This reply is considered by the disciplinary authority under sub-Rule (3) of Rule 5 and the proceedings may be dropped at this stage. In the event, proceeding is initiated, charges are framed as per sub-rule (4). Sub-Rule (5) provides for appointment of an inquiry officer who then submits an inquiry report that is shared with the petitioner.

In my view, this writ petition is premature and the petitioner should reply to the show cause notice. Needless to mention, in the event disciplinary charges are framed against him, the Board shall follow the provisions of Rule 5 of the said Rules of 2018.

In light of the same, this writ petition is disposed of with a direction upon the petitioner to furnish his reply to the show cause within 10 days from date. The disciplinary authorities are directed to consider the said reply to the show cause notice and proceed in accordance with law.

I make it clear that I have not gone into any other prayers or issues that have been made by the petitioner in this writ petition.

Since, no affidavit-in-opposition has been called for the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)