

S/L 17
22.03.2021
Court. No. 16
SB

WPA 8100 of 2020

Dinesh Tudu
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Tulsi Das Maiti, Advocate

...for the Petitioner.

Mr. Supriyo Chattopadhyay, Advocate

Mr. Sabyasachi Mondal, Advocate

...for the State.

Affidavit of service filed in Court today, is kept on record.

Mr. Supriyo Chattopadhyay with Mr. Sabyasachi Mondal, learned advocates represented the first, sixth and seventh respondent. From the affidavit of service, it is evident that despite service second, third, fourth and fifth respondent are not represented.

The writ petitioner claims that he had been serving as an Assistant Primary Teacher at Dharampur Primary School, District – Jhargram. The writ petitioner alleged that in view of a criminal proceeding alleged to have been initiated against him, *inter alia*, under Sections 498A, 304B and 34 of the Indian Penal Code and the same being informed to the school authority, he was suspended.

His grievance is that after obtaining bail from the jurisdictional criminal court, he made a representation

through his advocate's letter being Annexure P4 to the writ petition appearing at pages 18 and 19 thereto and the authorities concerned did not take any step thereupon. Hence, the instant writ petition.

Mr. Supriyo Chattopadhyay, learned advocate appearing for the State submitted that, Rule 7 of the West Bengal Primary Education (Conduct and Service of Teachers of Primary Schools), Rules 2001 governs the case of the writ petitioner. He further submitted that, the law on this score is well-settled by this Court in the matter of *Birbhum District Primary School Council & Anr. Vs. Md. Mokhtar Hossain & Ors.*, reported at 2009 (1) CHN 476. He fairly submitted that, in the light of the said settled law, the fifth respondent is the authority under whose domain such issue can be raised for his decision.

Both Mr. Tulsi Das Maiti, learned advocate appearing for the writ petitioner and Mr. Supriyo Chattopadhyay, learned advocate appearing for the State drew attention of this Court to another order passed by a co-ordinate Bench dated February 23, 2021, in *Monjurul Sarkar Vs. The State of West Bengal and Others; WPA No. 855 of 2021*, and submitted that, the present writ petition can also be disposed of in the same line.

Considering the submissions made on behalf of the parties and perusing the materials before this Court, this Court is of the view that justice would be sub-served, if the fifth respondent is directed to consider the representation

made on behalf of the writ petitioner being Annexure P4 at pages 18 and 19 to the writ petition.

Since despite notice, the Primary School Council is not represented including its Chairman, the writ petitioner is directed to serve a copy of this order along with a copy of the complete writ petition upon the fifth respondent forthwith.

The fifth respondent is directed to consider the said representation made on behalf of the writ petitioner being Annexure P4 at pages 18 and 19 to the writ petition, after giving an adequate opportunity of hearing to the writ petitioner and to allow the writ petitioner to produce all the relevant documents and records at the time of such hearing and then pass a reasoned order in accordance with law and communicate the same to the writ petitioner forthwith. While considering the said representation, the fifth respondent must consider the decision of this Court in the matter of *Birbhum District Primary School Council & Anr. Vs. Md. Mokhtar Hossain & Ors. (Supra)*.

The entire exercise as stated above, must be carried out and completed by the fifth respondent within a period of eight weeks from the date of receipt of this order.

In view of the above, the present writ petition being WPA No. 8100 of 2020 stands disposed of.

There shall be no order as to costs.

(Aniruddha Roy, J.)