

Ct.
No.
26

13
akb

08.03
2021

W.P.A. 10747 of 2020

With

I.A No. C.A.N. 1 of 2021

Md. Ashique Ikabal Mandal

- Versus -

State of West Bengal & Ors.

Mr. Biswarup Bhattacharya

Mr. Sudipta Dasgupta

Mr. Bikram Banerjee

...For the Petitioner

Mr. Ananda Gopal Mukherjee

...For the Applicants

Ms. Chaitali Bhattacharyya

Mr. Kartick Chandra Kapas

...For the State Respondents

Ms. Koyeli Bhattacharya

...For Respondent Board

Re.: IA No. C.A.N. 1 of 2021 (Addition of Parties).

This is an application for addition of the applicants, who initially lodged complaint against the petitioner that resulted in the suspension of the petitioner.

In my view, no harm would be caused if these persons are added as party respondents, as these applicants are the Assistant Teachers and the Teacher-in-Charge of the School and have the well being of the School in question.

Mr. Biswarup Bhattacharya, learned Counsel appearing on behalf of the petitioner opposes the prayer for addition of the applicants on the ground that it is the West Bengal Board of Secondary Education that has issued suspension and initiated disciplinary proceeding against him and the fact that the applicants had complained against him has no value now.

In my view, the applicants are required to be added as party respondents so that proper hearing can take place and necessary orders may be passed in the writ petition.

Accordingly, the petitioner is directed to add the

applicants as party respondents and carry out necessary changes in the writ petition at once.

The application for addition of parties is disposed of.

Learned Counsel appearing on behalf of the applicants submits that he is having copy of the writ petitioner, and accordingly, prays for dispensation of the service of copy of the writ petition.

Accordingly, service upon the applicants is dispensed with.

W.P.A. 10747 of 2020.

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the alleged illegal action of the West Bengal Board of Secondary Education in issuing a charge sheet upon the petitioner without having duly proceeded in accordance with 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 Rules, 2018').

Mr. Biswarup Bhattacharya, learned Counsel appearing on behalf of the petitioner has submitted that the charge sheet was issued on September 05, 2020 without having first issued a show cause notice upon the petitioner as per the Rule 5(2) of the said Rules, 2018.

Ms. Koyeli Bhattacharya, learned Counsel appearing on behalf of the respondent Board fairly submits that no show cause notice has been issued. She however submits that the suspension was done in order and the said

suspension continues till date.

I have heard learned Counsel appearing on behalf of the parties and perused the materials placed on record.

I accordingly, quash and set aside the charge sheet that has been issued under Rule 5(5) of the said Rules, 2018 without adhering to Rule 5(2) of the said Rules, 2018.

I make it clear that the respondent Board shall be at liberty to proceed afresh in accordance with the said Rules of 2018 in respect of the disciplinary proceeding.

With the above observation, this writ petition is disposed of.

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, on priority basis.

(Shekhar B. Saraf, J.)