

Sl. No. 08
04.02.2021
Srimanta

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

WPA 676 of 2020

Debashis Barman

-versus-

The State of West Bengal & Ors.

Mr. Dhananjay Banerjee, Adv.,
Mr. Debajit Kundu, Adv.,
Mr. Ratan Chandra Roy, Adv.,
Mr. Surajit Basu, Adv.,
Ms. Rima Basu, Adv.

...For the Petitioner.

Mr. Bikramaditya Ghosh, Adv.,
Ms. Bedashruti Bose, Adv.

...for the State.

The petitioner is a teacher of Bhangamore No. 1 G. P. School. He was appointed on 11th February, 2017. On 21st May, 2018, One Sankar Roy made a complaint against the petitioner stating, *inter alia*, that the petitioner had developed a love relationship with his daughter who was a college going student at the relevant point of time. It was decided that her marriage would be solemnized with the petitioner in near future. Subsequently, after getting the job the petitioner did not want to marry her. Out of shock and on the deceit by the petitioner as such the daughter of the de facto complainant consumed poison and committed suicide. On the basis of the said complaint police registered Aliporeduar Police Station Case No. 185 of 2016 dated 21st May, 2018 under Sections 306/109 of the Indian Penal Code.

The petitioner was arrested in that case. As a result of his being in custody for more than 48 hours,

he was suspended from service. After being released on bail the petitioner repeatedly made representation to the respondents, particularly respondent nos. 6, 8, 9 and 10 to allow him to join the service on withdrawal of the order of suspension. But his prayer was turned down. So is the instant writ application.

It is submitted by the Learned Advocate for the petitioner that the allegation against the petitioner does not involve any offence of moral turpitude which may disentitle him to act as a teacher in a primary school. The alleged offence has no nexus with his service. Therefore, he should be allowed to join his service on withdrawal of the order of suspension in support of his argument. The Learned Advocate for the petitioner refers to the following decisions of the Hon'ble Supreme Court:-

- (i) ***Ramani Barman –Vs.- The State of West Bengal & Ors.***, reported in **2017 SCC Online Cal 5820**;
- (ii) ***Bhabatosh Barai –Vs.- The State of West Bengal & Ors.*** [W. P. 3633 (W) of 2018] decided on 11th May, 2018.

Learned Advocate for the respondents, on the other hand, refers to a decision of the Division Bench of the High Court at Calcutta in the case of ***Birbhum District Primary School Council –Vs.- Mokhtar Hossain***, reported in **(2009) 1 CHN 476**. In the above-mentioned reported decision it is held that if there is nexus between the alleged offence and the service of the petitioner, the petitioner should not be permitted to join his service on withdrawal of his deemed suspension under Rule 7(2) of the Primary Education Rule.

I have already held that the alleged offence has no nexus with his service or term of employment. Therefore, the ratio of the decision in ***Mokhtar Hossain (Supra)*** is not applicable in the instant case. For the reasons stated above, I am of the considered view that the impugned order of suspension cannot be sustained in the eye of law as well as the facts and circumstances. Accordingly, the impugned order dated 8th August, 2018 issued by the Chairperson, District Primary School Council, Cooch Behar, respondent no. 6 is quashed. The respondents are directed to permit the petitioner to join his service forthwith on filing of the server copy of this order.

The instant writ petition is, thus, allowed on contest, however, without cost.

(Bibek Chaudhuri, J.)