

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

**22.11.2021
Crt. No.1.
K.B./b.r.
Item No.1**

W.P.A. 939 of 2021

***Ganesh Barman*
-Vs.-
*The State of West Bengal & Ors.***

**Mr. Nabankur Pal
.....for the petitioner.**

**Mr. Hirak Barman
Mr. Pretom Das
.... for the State.**

**Mr. Deborshi Dhar
..... for the DPSC,Cooch Behar.**

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

The writ petitioner is aggrieved by his continued suspension from the post of Assistant Teacher in the District Primary School Council (DPSC), Cooch Behar.

The petitioner submits that he was placed under suspension from 10th August, 2011

following a criminal charge. Pursuant to the criminal charge, the petitioner was detained in police custody and having remained so for more than 48 hours, he was placed under deemed suspension by his employer/the DPSC. The petitioner relies upon two orders of two Hon'ble concurrent Single Benches dated 22nd January, 2020 and 24th February, 2021 respectively in WPA 1078 of 2019 and WPA 390 of 2021. On the basis of the two orders, the petitioner submits that his Disciplinary Authority, being the Respondent no.5/the Chairperson, DPSC, to consider the continued suspension of the petitioner by passing a reasoned order.

The attention of this Court is also drawn to the judgement of the Hon'ble Apex Court *in Re: Ajay Kumar Choudhary Vs. Union of India & Another reported in (2015) 7 SCC 291* and in the matter of *Mithun Saha Vs. State of West Bengal reported in 2011 SCC Online Cal. 533: (2011) 2 Cal LT 180* whereby and whereunder similar facts were involved and the Disciplinary

Authority was directed to review the suspension. Such decisions were also taken note of by the Hon'ble concurrent Single Bench in WPA 1078 of 2019 (supra).

Appearing on behalf of the Disciplinary Authority/the Respondent nos. 4 and 5, learned Counsel submits that the charge against the petitioner is grave and having regard to the gravity of the charge the departmental proceeding was initiated based purely on the criminal complaint.

The State is also represented through learned Counsel.

Having heard the parties and considering the materials placed, this Court finds it *apropo* the discussion in similar cases as stated above, to direct the Respondent no.5/the Disciplinary Authority/the Chairperson, DPSC to review the suspension of the writ petitioner following the law and pass a reasoned order which would be communicated to the writ petitioner.

It is expected that the above directed exercise be completed not later than a period of

three weeks from the date of communication of this order.

Affidavits are neither necessary nor invited. Other allegations are therefore deemed to be denied and disputed.

WPA 939 of 2021 stands thus **disposed of.**

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

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Subrata Talukdar, J.)