

27 11.2.2022
Sc

W.P.A. 3204 OF 2011

(Via Video Conference)

Mohammad Golam Sabbir

Vs.

The State of West Bengal & Ors.

Mr. Probal Kr. Mukherjee

Mr. Rajat Dutta.

.... For the Petitioner

Mr. Santanu Kumar Mitra

Mr. Mirza Kamruddin.

... For the Respondent/
State

Mr. Amales Ray

Ms. Mousumi Bhawal

Mr. Aman Gupta.

.... For the Respondent
Nos. 5 & 6

Supplementary affidavit, filed on behalf of the writ petitioner, is taken on record.

In the present writ petition the Order of Removal dated 4th August, 2010 is under challenge whereby the writ petitioner who is a Lecturer in Botany in Siliguri B. Ed. College (hereinafter the College) was removed from his service. The writ petition has come up for final hearing.

Mr. Amales Ray, learned advocate appearing for the College being the respondent nos. 5 and 6 has fairly submitted - the procedure which was required to be followed prior to issuance of the Order of Removal dated 4th August, 2010, was not observed by the Governing Body of the College being the disciplinary authority and accordingly, it has been submitted that the disciplinary proceedings has been vitiated due to such non-

compliance. In the same breath, however Mr. Ray has also prayed for liberty to initiate fresh disciplinary proceedings against the petitioner.

Mr. Rajat Dutta, learned advocate appearing on behalf of the petitioner submits that the petitioner has suffered due to illegal issuance of the Order of Removal dated 4th August, 2010 by the Principal of the College and it has further been pointed out that it is a case of gross violation of natural justice and the petitioner was not afforded an opportunity to present his case before the inquiry officers as well as the disciplinary authority prior to issuing the impugned Order of Removal dated 4th August, 2010 and, therefore, has prayed for quashing of the order of punishment of removal which is at page 60 of the writ petition.

In view of the submissions made by the learned advocates representing the college authority as well as the writ petitioner and in consideration of the fact that since the College being the disciplinary authority has failed to follow the procedure for initiating and completing the disciplinary proceedings against the petitioner, the impugned Order of Removal dated 4th August, 2010 cannot survive and, accordingly, the same stands set aside.

The writ petitioner shall be at liberty to resume his duty being the Lecturer in Botany in the Siliguri B. Ed. College at an early date. Reinstatement of the petitioner

in the post of Lecturer in the College in question upon setting aside the Order of Removal dated 4th August, 2010 shall not preclude the College authority to take necessary steps against the writ petitioner in accordance with law, if so advised.

With the above direction, the writ petition stands disposed of and there shall be no order as to costs.

Photostat certified copy of this order, if applied for, be furnished to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)