

WPA 5572 of 2022  
Kamrunnahar Sultana  
Versus  
The State of West Bengal & Ors.

Mr. Arka Maity,  
Ms. Ambiya Khatun  
...For the Petitioner.

Mr. Ekramul Bari,  
Mr. Tanuja Basak  
...For the Respondent No. 4

The petitioner happens to be the wife of a Primary School Teacher. On the basis of a complaint lodged by the petitioner, a criminal proceeding was initiated being Ketugram P.S. Case No. 132/2019 dated 14<sup>th</sup> May, 2019 under Sections 498A/323/325/307/34 of the Indian Penal Code. He was arrested and was detained in jail custody on and from 4<sup>th</sup> May, 2019 to 18<sup>th</sup> May, 2019.

As the teacher was in custody for more than 48 hours, accordingly, the Chairman, District Primary School Council, Burdwan placed him under suspension with effect from the date of arrest until further order.

The order of suspension was thereafter revoked by the Chairman, District Primary School Council. The petitioner is aggrieved by the same.

The petitioner applied before the District Primary School Council praying for initiation of disciplinary proceeding against the teacher.

It has been submitted by the parties that the

criminal case initiated against the teacher is pending.

Learned advocate representing the private respondent raises preliminary objection with regard to the maintainability of the writ petition before this Court. It has been submitted that the dispute between the petitioner and the teacher is a private dispute arising out of marital issues. The allegation does not pertain to the service of the petitioner.

In response to the said submission, learned advocate representing the petitioner submits that as the husband of the petitioner is a primary school teacher, he has an obligation to build up the foundation of young children. There is an allegation of claiming dowry against the teacher.

Learned advocate for the petitioner relies upon the observation made by the Hon'ble Supreme Court in the matter of Subramanian Swamy Versus Manmohan Singh & Anr., reported in (2012) 3 SCC 64 paragraph 72, wherein the Hon'ble Supreme Court observed that the right of private citizen to file a complaint against a corrupt public servant must be equated with his right to access the court in order to set the criminal law in motion against a corrupt public official. This right to access, a constitutional right, should not be burdened with unreasonable fetters. When a private citizen approaches a court of law against a corrupt public servant who is highly placed, what at stake is not only a vindication of personal grievance of that citizen but also the question of bringing orderliness in society and maintaining equal

balance in the Rule of Law.

It has been submitted that the teacher concerned has got very high connections. It is not unusual that he will take advantage of all the connections that he enjoys in the society.

On perusal of the judgment passed by the Hon'ble Supreme Court, it appears that the same was passed in a proceeding arising out of the Prevention of Corruption Act, 1988. The appellant and the respondent before the Hon'ble Supreme Court are highly placed officers.

In the present case, the husband of the petitioner is a primary school teacher. The allegation arises out of marital dispute between the parties. The allegations are no way related with the service of the teacher.

Under such a situation, this Court is of the opinion that whether any proceeding is required to be initiated against the employee is the absolute discretion of the employer and the petitioner being a stranger to the service of the petitioner ought not to dictate the employer to initiate disciplinary proceedings.

The criminal case arising out of the complaint filed by the petitioner is pending. The petitioner is the de-facto complainant in the said criminal case. She will be at liberty to ventilate her grievance before the appropriate forum and she will also be at liberty to initiate any proceeding against her husband in accordance with law.

No relief can be granted to the petitioner at this stage in the instant petition.

The writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**(Amrita Sinha, J.)**