

Court No. 22
16.11.2022
(Item No. 124)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 7917 of 2021

Dilip Kumar Pramanik
VS
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee
Mr. Saptarshi Chakraborty
Ms. Poulami Dutta
..... for the petitioner
Ms. Koyeli Bhattacharyya
.....For WBBSE
Mr. Malay Singh
Mr. Rakesh Singh
..... for the State

Affidavit of service filed in Court, is taken on record.

The petitioner claims to be a **Clerk** i.e. **Group ‘C’ employee** at **Manoharpur Sri Ramkrishna High School (HS) District Paschim Medinipur**. He suffered a suspension order from the school authority dated December 12, 2020, Annexure P-8 to the writ petition. On perusal it appears that the said suspension order was issued by the school authority.

Mr. Prosenjit Mukherjee, learned counsel appearing for the writ petition submits that, in view of the operation of the **West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching Staffs) Rules, 2018** the said suspension order is wholly without jurisdiction. He submits that, after the said 2018 Rule came into force the authority and

jurisdiction lies with the respondent No. 8 to initiate and conclude the proceeding for suspension.

Mr. Malay Singh, learned State counsel is present.

Ms. Koyeli Bhattacharyya, learned advocate for respondent No. 8 is present.

Upon considering the submissions made on behalf of the parties and on perusal of the records and also after considering the relevant provisions of the said Rule 2018, this Court is of the firm view that, the said suspension order dated December 12, 2020, **Annexure P-8** to the writ petition is wholly without jurisdiction and cannot sustain in law.

In view of the above, the said order of suspension dated December 12, 2020, **Annexure P-8** to the writ petition stands set aside and quashed.

Consequently the petitioner shall be eligible and shall join at the relevant school and render his service in the school without any fetter with an immediate effect preferably from tomorrow i.e. on November 17, 2022 considering the interest of the students. This order however will not preclude the respondent authorities to take steps on the issue strictly in accordance with law.

It is made clear that, this Court has not gone into the merit of the claim of the writ petitioner in any manner and this order is being passed solely on the ground that the school authority had acted without

jurisdiction in issuing the suspension notice and in taking and issuing the decision for suspension of the petitioner.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is needless to mention that, the petitioner shall be eligible and entitle to all his employment benefits and the school and all appropriate authority must not stand in the way thereof, taking into account as if the petitioner has not suffered any suspension at all.

On the above terms, this writ petition being **WPA 7917 of 2021** stands allowed.

There shall, however, be no order as to costs.

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

(Aniruddha Roy, J.)