

20th May, 2022
(D/L No.12)
(SKB)

W.P.A. 7208 of 2022

Ranapati Roy
Vs.
The State of West Bengal and others

Mr. Amitabha Ghosh
... for the petitioner.

Mr. Nilotpal Chatterjee
... for the State.

Mr. Prantick Ghosh,
Mr. Siddhartha Sarkar
... for respondent nos.3 and 4.

This court was not inclined to pass any interim order without hearing the College, although, it had been observed that the College had unnecessarily dragged its feet for three months without any explanation. The College was directed to file a compliance report to the extent of payment of the subsistence allowance of the petitioner who was suspended by an order dated 10th February, 2022.

Learned counsel appearing for the College has handed up a document showing that the petitioner has been paid subsistence allowance for three months and would be paid further upon the petitioner filing a declaration for that in the requisite form. Counsel also relies on Regulation 208 of The West Bengal State University First Statutes – 2014, which provides for an

appeal. Counsel also submits that being in jail custody amounts to deemed suspension.

Learned counsel appearing for the petitioner places the impugned letter of suspension dated 10th February, 2022 which refers to the decision of the Governing Body dated 27th January, 2022 by which the Governing Body took a decision to suspend the petitioner.

After considering the documents on record, it appears that the College issued a show-cause notice to the petitioner on 27th January, 2022. The impugned letter of suspension, though dated 10th February, 2022, refers to the decision of the Governing Body for suspending the petitioner having been taken on 27th January, 2022. Therefore, the decision to suspend the petitioner was taken on the same day of the show-cause notice issued to the petitioner.

The court has perused the Regulations contained in the First Statutes-2014. Regulation 207-Discipline and Conduct – provides under 207(2)(f) that the appointing authority or any authority subordinate to the appointing authority may take the decision of suspending an employee for good and sufficient reasons. The Regulation provides for a specific procedure including framing of charge sheet and opportunity of putting in a written statement by the

charged employee as well as for a formal enquiry before a final decision is taken.

It is clear from the documents on record that the petitioner was not given even a day to respond to the show-cause notice before the decision was taken to suspend the petitioner. Whatever be the seriousness of the alleged offence the petitioner must be given an opportunity of defending himself. It is a fundamental rule of natural justice that no man can be punished unheard. The submission that the petitioner was in jail custody at the time of issuing the show-cause notice is hence contrary to the facts on record and evident of the unfair and arbitrary stand taken by the College. This court is, hence, of the view that the impugned letter of suspension dated 10th February, 2022 cannot stand either in facts or in law.

It should also be mentioned that Regulation 208 - relating to Appeals – provides for an appeal to the Governing Body. In this case, since the impugned decision has been taken by the Governing Body, Regulation 208 does not assist the respondent College.

W.P.A.7208 of 2022 is, hence, allowed and disposed of in terms of prayers (a) and (d) of the writ petition. The respondents, particularly, respondent no.3 are directed not to give effect to the impugned letter of suspension dated 10th February, 2022.

College shall, however, be at liberty of proceeding afresh against the petitioner.

(Moushumi Bhattacharya, J.)