

Court No. 24
29.03.2022
(Item No. 31)
(AB)

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 20808 of 2021

Nisith Baran Das
VS
The State of West Bengal & Ors.

Mr. Sudip Kushari
..... for the petitioner
Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey
..... For the State
Mr. Ratul Biswas
.... For the Council

The petitioner is a Primary School Teacher. He was arrested on 23rd September, 2016 in connection with Domjur Police Station case No. 182/16 dated 29th February, 2016 under Sections 167/406/417/468/471/420/409 of the Indian Penal Code and was in jail custody for more or less 54 days. Thereafter the petitioner was enlarged on bail. An order of suspension was issued to him on 28th September, 2016.

The allegation of the petitioner is that he is not getting his subsistence allowance on regular basis.

Further allegation of the petitioner is that the aforesaid criminal case is pending consideration for a considerable period of time. There is no possibility of the criminal case being coming to a close in the immediate future.

The petitioner submits that he ought not to be kept under suspension for an indefinite period. He prays for a

direction upon the respondent authorities to review the order of suspension.

The petitioner has made a representation before the respondent authorities praying for reviewing the order of suspension.

The aforesaid representation dated 6th December, 2021 was sent through post and the petitioner alleges that the same is yet to be disposed of by the respondent authorities.

It appears from the submissions made on behalf of both the parties that during the period of suspension the petitioner was entitled to receive his subsistence allowance. The respondents are directed to continue to pay the subsistence allowance to the petitioner on regular basis.

The Chairman of the District Primary School Council, Howrah is further directed to consider the representation filed by the petitioner on 6th December, 2021 strictly in accordance with law, at the earliest, after giving an opportunity of hearing to the petitioner and to pass a reasoned order and communicate the same to the petitioner immediately thereafter. Steps shall be taken in the matter positively within a period of six weeks from the date of communication of a copy of this order.

It is made clear that the Court has not entered into the merits of the claim of the petitioner and all points are left open to be decided by the said respondent at the time of consideration of his representation.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)