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14.01.2022.
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 20815 of 2021
(Via Video Conference)**

**Kapil Biswas
-versus
The State of West Bengal & Ors.**

**Mr. Biswarup Biswas,
Mr. Satyan Mukherjee.
...For the Petitioner.**

**Mr. Bhaskar Prasad Vaisya,
Mr. Pinaki Bhattacharya.
...For DPSC.**

**Mr. Pinaki Dhole.
...For the State.**

The petitioner, a primary school teacher, was placed under suspension by an order dated 20th January, 2021 as he was arrested on 28th December, 2020 in connection with the Duttapukur Police Station Case No.489/2020 dated 6th July, 2020 under sections 420 and 34 IPC.

The order of suspension was to remain effective until further orders.

The petitioner is presently enlarged on bail. He approached the District Primary School Council, North 24-Parganas praying for a direction for withdrawal of his order of suspension and for enhancement of his subsistence allowance.

The petitioner served a notice demanding justice through his learned advocate upon the respondent authorities in September 2021 and prays for a direction upon the respondent authorities for consideration of the said representation.

It has been submitted that the offence in which he has been implicated is no way connected with his service and necessary order may be passed for revocation of the order of suspension.

The Hon'ble Supreme Court in the matter of Union of India –vs- Rajiv Kumar reported in (2003) 6 SCC 516 while dealing with the suspension of an employee under the provisions of Central Civil Services (Classification, Control and Appeal) Rules, 1965 took into consideration the expression “until further orders”.

The Court categorically held that the order of suspension does not lose its efficacy and is not automatically terminated the moment detention came to an end and the person is set at large.

The Court was of the further opinion that the order of suspension does not become invalid merely because it is for a very long period.

In the matter of Birbhum District Primary School Council & Anr. –vs- Md. Mukhtar Hossain & Ors. reported in 2009 (1) CHN 476 the Court held that the order of suspension does not come to an end on release of the primary school teacher from detention. To infer that the Rules discontinues the suspension on cessation of detention would be to plant words therein and imply *casus omissus* when there is no case of

strong necessity to presume the inadvertence in the drafting of the sub-rule.

In the instant case, the petitioner was taken into custody on 28th December, 2020 and released therefrom on 11th January, 2021. The suspension is valid until further order passed by the District Primary School Council.

It will be open for the District Primary School Council to review the order of suspension, if occasion so demands.

The petitioner does not have a legal right to claim revocation of the order of suspension till the criminal proceeding is pending against him.

The order of suspension remains valid till the same is modified/varied/withdrawn by the competent authority.

The petitioner has made a representation before the respondent authorities in September 2021.

The Chairman of the District Primary School Council, North 24-Parganas is directed to consider the representation filed on behalf of the petitioner strictly in accordance with law and in the light of the observations made hereinabove within a period of eight weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The petitioner is directed to forward a copy of the demand justice filed on his behalf on 3rd September, 2021, the order of suspension dated 20th January, 2021 and the order passed enlarging him on bail to the aforesaid respondent at the time of communicating the order of this Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)