

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

BEFORE:-

THE HON'BLE JUSTICE RAJASEKHAR MANTHA

WPA 2561 of 2020
Ashish Kumar Tiwari
-Versus-
The State of West Bengal & Ors.

With

WPA 22714 of 2018
Managing Committee of
Shree Balkrishna Vithalnath Vidyalaya & Anr.
-Versus-
The State of West Bengal & Ors.

With

WPA 22721 of 2018
Managing Committee of
Shree Balkrishna Vithalnath Vidyalaya & Anr.
-Versus-
The State of West Bengal & Ors.

With

WPA 2562 of 2020
Sushil Kumar Rai
-Versus-
The State of West Bengal & Ors.

Mr. Subir Sanyal,
Mr. S. Das

....for the petitioner in WPA 2561 of 2020
and WPA 2562 of 2020.

Mr. Pijush Chaturvedi,
Mr. Tarun Kumar Das,
Mr. Anindya Bose

...for the petitioner in WPA 22714 of 2018
and WPA 22721 of 2018.

Mr. Bhaskar Prosad Vaisya, Id. A.G.P.,

Ms. Chaitali Bhattacharya
 Mr. Kartick Chandra Kapas
 Mr. Sagnik Chatterjee
 Mr. Supriyo Chattopadhyay
 Mr. Sabyasachi Mondal

...for the State.

Ms. Koyeli Bhattacharyya
 Mr. Santanu Kr. Mitra

...for the WBBSE.

Mr. Subir Sanyal,
 Mr. S. Das

....for the private respondents in
 WPA 22714 of 2018 and WPA 22721 of 2018

Mr. Pijush Chaturvedi,
 Mr. Tarun Kumar Das,
 Mr. Anindya Bose

...for the respondent nos. 6 & 7 in
 WPA 2561 of 2020 and WPA 2562 of 2020

Hearing Concluded On : 29.08.2022

Judgment On : 07.09.2022

Rajasekhar Mantha, J.

1. The writ petitions involve common questions of law, i.e. whether by Notification No. 214-SE dated 8th March, 2018 issued by the School Education Department of West Bengal, the jurisdiction and authority of the West Bengal Board of Secondary Education ('Board') in respect of disciplinary proceedings against the two employee-writ petitioners stood extinguished. Consequently as to whether the order dated 5th September, 2018 is legal or sustainable.

2. The brief facts relevant to the case are that the two employee-writ petitioners in WPA 2561 of 2020 and WPA 2562 of 2020 were teacher employees of Shree Balkrishna Vithalnath Vidyalaya (hereinafter referred to as 'school'). The teaching and non-teaching staff of the school receive Dearness Allowance (D.A.) from the State and the school is an aided school within the meaning of the West Bengal Board of Secondary Education Act of 1963 and the Management of Recognized Non-Government Institutions (Aided and Unaided) Rules, 1969.
3. For acts and omissions complained of against the two employee-petitioners, disciplinary proceedings were instituted against them. The said proceedings comprised in show-cause notices, replies thereto of the two employee-petitioners, orders of suspension of the employee-petitioners, proposals for approval of suspension, charge sheets and enquiry reports.
4. Initially, approval for, suspending the employees and the first stage of disciplinary proceedings was declined by the Board vide orders dated 10th July, 2018.
5. Pursuant to orders dated 10th July, 2018 of the Court passed in WP 15242 (W) of 2018 and WP 15243 (W) of 2018, the order of the President of the Ad hoc Committee of the Board was set aside and the matter was remanded back for consideration afresh by the Ad hoc Committee of the Board.

6. Pursuant to the said direction of this Court, the Board, once again by order dated 25th September, 2018, disapproved the proposal of the first stage of the disciplinary proceedings against the employee-petitioners as also the orders of suspension.
7. The employee-petitioners seek enforcement of the order of the Board, reinstatement of service in the school and other consequential reliefs. The school has filed WPA 22714 of 2018 and WPA 22721 of 2018 challenging the Board's orders dated 25th September, 2018.
8. The powers of a Managing Committee of aided and non-aided institutions, inter alia, to deal with their employees were defined under Rule 28 of the West Bengal Board of Secondary Education Act of 1969. Rule 28(8) prescribed the procedure for disciplinary action against the employees and the powers and duties of the Managing Committee of aided and unaided schools.

“28. Powers of Committee-.....

28(1).....

28(2).....

28(3).....

28(4).....

28(5).....

28(6).....

28(7).....

28(8) Both in aided and un-aided Institutions the Committee shall have the power, subject to the prior approval of the Board, to remove, or dismiss permanent or temporary teachers and other employees. For this purpose the Committee shall first draw up formal proceedings and issue charge-sheet to the teacher or the employee concerned, and offer him reasonable facility for defending himself. The teacher or the employee proposed to be proceeded against shall submit his explanation, ordinarily, within a fortnight of the receipt of the charge-sheet, explanations submitted by the teacher or the employee concerned and the reasons for which the Committee decides in favour of taking disciplinary action. If the

Board considers that there are sufficient grounds for taking disciplinary action the Committee shall issue formal notice calling upon the teacher or the employee considered to show-cause, ordinarily within a fortnight, why he should not be dismissed or removed from service. The Committee shall, then, send again to the Board all relevant papers including the explanation submitted by the teacher or the employee concerned and the recommendations of the Committee for the action proposed to be taken. So far as the Committee is concerned, the decision of the Board shall be final:

Provided that the Board may delegate to any Committee constituted under section 24 of the Act the powers and functions conferred on the Board by this sub-rule.”

9. The aforesaid rule clearly mandated a restriction on the Managing Committee of the school from taking any step towards disciplinary action against its employees and empowers the Board to approve suspension, initiation of disciplinary action and penalizing its employees.
10. In the instant cases after the two employee-petitioners were suspended, the approval for such suspension came to be considered by the Board and it received the submissions of the school on 26th February, 2018 and 9th March, 2018. The fact that the school had formally sent a proposal to the Board for approval of the first stage of the disciplinary proceedings against the two employee-petitioners on 26th April, 2018 and 9th July, 2018, assumes some importance in the instant case.
11. By the Notification No. 214-SE dated 18th March, 2018, the State Government published the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching staff) Rules of 2018.

12. Provisions relating to appointment, confirmation, conduct and discipline of teaching and non-teaching staff were framed thereby modifying the provisions with regard to disciplinary action by schools under the Board against the teachers. The procedure laid down under the Act of 1963 accordingly came to be streamlined and amended.
13. On the same day i.e. 18th March, 2018, by yet another Notification No. 216-SE certain amendments were effected to the, “Management of Recognized Non-Government Institutions (Aided and Unaided) Rules, 1969”. By the aforesaid Notification No. 216-SE, inter alia, Rule 28(8) of 1969 Rules referred to hereinabove, came to be omitted. In place of Rule 28(8), Rule 28A & B came to be introduced.

“NOW, THEREFORE, in exercise of the power conferred by sub-section (1), and clauses (d) and (o) of sub-section (2) of section 45, read with clause (j) of sub-section (2) of section 27, of the said Act, the Governor is pleased hereby to make, with immediate effect, the following amendments in the said rules, namely:-

Amendments

In the said rules,-

(1) In the sub-rule (2b) of rule 4, for the words, letters, figures, letters and brackets “by Committee in terms of clause (viia) of sub-rule (9) of rule 28:”, substitute the words, figures and brackets “as per provision of the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching Staff) Rules, 2018:”;

(2) In rule 28,-

(a) Omit sub-rules (1), (1a), (2), (3), (4), (5), (6), (7), (8), (8a) and (8b);

(b) In sub-rule (9).- (I) in item No. (i) omit the words “to grant increments in pay to teachers and other employees in accordance with the procedure laid down from time to time or where in aided school that grant of increments is regulated by grant-in-aid rules; in accordance with such rules;”

(3) Rule 28A shall be renumbered as rule 28E and before rule 28E, so renumbered, insert the following rules:-

“28A. Powers and duties of committee or Administrator of a Recognized Non-Government Aided Institution.- The Committee or the Administrator of a Recognized Non-Government Aided Institution, subject to any order of

the Government or the Director of School Education or the Board or the District Inspector of School (Secondary Education) of the district or the Additional District Inspector of Schools (Secondary Education) of the concerned Sub-Division, shall-

(a) Allow a candidate to join either on first appointment as such on transfer, in the post of Headmaster or Headmistress if he or she carries an appointment letter or an order of transfer issued by the Board in pursuance of the provisions of the West Bengal School Service Commission Act, 1997 and the West Bengal Board of Secondary Education Act, 1963, as and when he or she reports for joining:

Provided that if the committee or the Administrator refuses to allow a candidate to join the post of Headmaster or Headmistress, it shall amount to misconduct on the part of the committee or the Administrator, and the Board may, with the approval of the Government, take any action, including dissolution of the committee, or as the case may be, the Government may initiate departmental proceeding against the Administrator;

(b) Appoint, with the prior permission of the District Inspector of Schools (Secondary Education) of the concerned Sub-Division, teaching or non-teaching staff against part-time vacancies of temporary nature, if available, within the sanctioned strength and as per the norms fixed by the Government or other competent authority in this regard.

(c) Appoint, with the prior permission of the District Inspector of Schools (Secondary Education) of the district or the Additional district Inspector of Schools (Secondary Education) of the concerned Sub-Division, the Assistant Headmaster or the Assistant Headmistress against the vacancy within the sanctioned strength from amongst the approved teachers;

(d) Grant leave as mentioned in the Appendix to 28(9)(i) of these rules, other than the casual leave which shall be granted by the Head of institution and by the Secretary of the Committee, in case of Head of institution;

(e) Depute teachers for teacher's training courses duly approved by the National Council for Teacher Education and duly recognized by the State Government in the interest of the institution;

(f) Give 'No Objection Certificate (NOC)' to transfer applications in the prescribed manner, if the same is required by any law or rules relating to transfer;

(g) Intimate the Board on any matter pertaining to alleged misconduct of any teaching or non-teaching staff of the institution with all relevant records and evidence;

(h) Prepare and publish academic calendar and list of holidays of institution;

(i) Maintain accounts of funds of the institution and the said account funds shall be operated jointly by the persons as referred to in rule 27 (2);

(j) Frame annual reports;

(k) Implement and/or supervise all schemes of development of the institution and make provision for safe drinking water, sanitation, separate urinal and latrine for boys, girls and transgender, healthy mid-

day meal, arrangement of fire safety duly certified by the competent authority and provision for safety of children;

(l) Follow the provisions of the law relating to the right to education as laid down in the Right of children to Free and Compulsory Education Act, 2009, in respect of elementary education, if the institution imparts elementary education;

(m) Obey any other general or specific order of the Government or the Director of School Education or the Board or the District inspector of School (Secondary Education) of the district or the Additional District Inspector of Schools (Secondary Education) of the concerned sub-Division in the interest of education.

(n) To report vacancies, as and when arising, in the permanent sanctioned posts, as per rules.

28B. Powers and duties of Committee of a Recognized Non-Government Unaided Institution.-The Committee of a Recognized Non-Government Unaided Institution, subject to any order of the Government or the Director of School Education or the Board or the District Inspector of Schools (Secondary Education) of the district or the Additional District Inspector of School (Secondary Education) of the concerned Sub-division, shall have the powers and duties-

(a) To appoint teachers or non-teaching staff as per the norms fixed by the competent authority in this regard;

(b) To maintain and control the service of such appointed teaching or non-teaching staff as per law or agreement made between the said committee and the concerned teaching or non-teaching staff;

(c) To intimate the Board on any matter pertaining to misconduct of any teaching or non-teaching staff of institution;

(d) To formulate academic calendar and list of holidays of institution;

(e) to maintain accounts of the funds of institution. The said accounts and funds shall be maintained jointly by the persons as referred in rule 27 (2);

(f) to implement and/or supervise all scheme of development of the institution and shall make provision for safe drinking water, sanitation, separate urinal and latrine for boys and girls, healthy mid-day meal, arrangement of fire safety duly certified by the competent authority and provision for safety of children;

(g) to follow the provisions of the law relating to the right to education as laid down in the Right of Children to Free and Compulsory Education Act, 2009 in respect of elementary education, if the institution imparts elementary education;

(h) to obey and other general or specific order of the Government or the Director of School Education or the Board or the District Inspector of Schools (Secondary Education) of the district or the Additional district Inspector of Schools (Secondary Education) of the concerned Sub-Division in the interest of education.”

14. Counsel for the school would argue that by reason of the omission of Rule 28(8) of the Rules of 1969, the authority of the Board to approve suspension and the first stage of disciplinary proceedings as conceived of under the original Rule 28(8) stood extinguished with immediate effect. The impugned orders passed by the Board dated 25th September, 2018 and all actions of the school and the board, were rendered infructuous, nugatory and or without any force.
15. Per contra, Counsel for the employees, Mr. Subir Sanyal, would argue that the proceedings were instituted by the school under Rule 28 (8) of the 1969 Rules when Notification No.216-SE dated 18th March, 2018 did not exist. Proceedings already instituted prior to the Notification No.216-SE dated 18th March, 2018, are not affected. The impugned orders of the Board dated 25th September, 2018 are legal and valid according to the employees. The disciplinary proceedings against the petitioners, therefore, must be deemed to have come to an end by reason of the said order of the Board dated 25th September, 2018.
16. It is next argued by Mr. Sanyal by reference of Section 6 (c) and Section 24 of General Clauses Act, that amendment to any law brought into force during the pendency of proceedings would not affect rights accrued to a party under the unamended rules. It is also argued that the protection given under Rule 28 (8) of the 1969 Rules are in the nature of substantive rights. The rights being, a check and

control by the Board on the School against any illegal and arbitrary disciplinary action against its employees.

17. Mr. Chaturvedi, Ld. Counsel for the School places reliance upon a decision of the Supreme Court in the case of **Rayala Corporation (P) Ltd. Vs. Directorate of Enforcement** reported in **(1969) 2 SCC 412** particularly paragraph 17.

“17. Reference was next made to a decision of the Madhya Pradesh High Court in *State of Madhya Pradesh v. Hiralal Sutwala* [AIR 1959 MP 93] but, there again, the accused was sought to be prosecuted for an offence punishable under an Act on the repeal of which Section 6 of the General Clauses Act had been made applicable. In the case before us, Section 6 of the General Clauses Act cannot obviously apply on the omission of Rule 132-A of the DIRs for the two obvious reasons that Section 6 only applies to repeals and not to omissions, and applies when the repeal is of a Central Act or Regulation and not of a rule. If Section 6 of the General Clauses Act had been applied, no doubt this complaint against the two accused for the offence punishable under Rule 132-A of the DIRs could have been instituted even after the repeal of that rule.”

18. It is argued that an omission in a statute or rule cannot be equated with an amendment. Hence the omission of Rule 28(8) does not attract Clause 6(c) of the General Clauses Act, 1897.
19. This court has carefully considered the arguments of both sides. It is now well settled that an amendment to any rule or law is only prospective unless expressly stated otherwise. The amendment introduced by the notification No. 216-SE dated 18th March, 2018 omitting Rule 28(8), must essentially be deemed prospective in application.
20. However, one must notice that as on the date, omission of the sub-rule 8 of Rule 28 by the said amendment notification no. 216-SE, the school had not sent any document seeking approval of the Board

either for the suspension of the employee-petitioners or the first stage of disciplinary proceedings against them. Any right under a rule particularly when such right is to be determined under a procedure does not crystalize until and unless such procedure is completed. Paragraph 4 of the decision of the Supreme Court in the case of **R. Kapilnath Vs. Krishna** reported in **(2003) 1 SCC 444** may be usefully referred hereinbelow.

“4. The above submission of the learned counsel has been stated only to be rejected. It is pertinent to note that the proceedings in the Court of Munsiff had already stood concluded by the time the amendment came into force. It is not disputed that Amendment Act 32 of 1994 has not been given a retrospective operation and there is nothing in the Act to infer retrospectivity by necessary implication. The Act has been specifically brought into force w.e.f. the 18th day of May, 1994. The learned counsel for the appellant cited a number of decisions laying down the law as to how an amendment in legislation brought into force during the pendency of legal proceedings has to be given effect to. Without stating the decisions so cited, suffice it to observe that all those decisions deal with substantive rights having been created or abolished during the pendency of legal proceedings and depending on the legislative intent and the language employed by the legislature in the relevant enactment, this Court has determined the impact of the legislation on pending proceedings and the power of the court to take note of change in law and suitably mould the relief consistently with the legislative changes. So far as the present case is concerned, the only submission made by the learned counsel for the appellant is that the effect of the amendment is to deprive the Court of Munsiff of its jurisdiction to hear and decide the proceedings for eviction over such premises as the suit premises are. In other words, it is a change in forum brought during the pendency of the proceedings. The correct approach to be adopted in such cases is that a new law bringing about a change in forum does not affect pending actions, unless a provision is made in it for changeover of proceedings or there is some other clear indication that pending actions are affected. (See *Principles of Statutory Interpretation*, Justice G.P. Singh, 8th Edn., 2001, p. 442.) We have already indicated that the Act does not bring about a change in forum so far as the pending actions are concerned. Moreover, by the time the amendment came into force, the proceedings before the Munsiff had already stood concluded and the case was pending at the stage of revision before the Additional District Judge. Further, we find that an objection laying challenge to the forum's competence was not raised before the learned Additional District Judge nor was the objection taken before the High Court in the civil revision preferred by the appellant. It was not taken as a ground in the special leave petition. It has been taken only by way of a separate petition filed subsequently and seeking leave to urge additional grounds. Such an objection cannot be allowed to be urged so belatedly. However, we have already held the argument based on the 1994 Amendment as of no merit.”

21. It is clear from the aforesaid that only the rights (substantive or procedural) under any completed/concluded adjudication before the coming into force of an omission/amendment are saved. In the case at hand, as on the date of the amendment, there was no final adjudication or decision on the disciplinary action against the petitioner, either by the Board or the school. The authority of the Board stood extinguished as on 18th March, 2018 and the order dated 25th September, 2018 is, therefore, rendered infructuous.
22. The impugned orders and the subsequent act of the school to seek approval of the Board or any proceedings against the petitioners are, therefore, stillborn and did not exist in the eye of law. Even if one considers that the issue of suspension was pending approval with the Board before the notification no. 216-SE dated 18th March, 2018, the need for the Board's approval stood extinguished after the notification came into force.
23. The school, forwarding the dossier, inter alia, containing the enquiry reports to the Board after the coming into force of the Notification dated 18th March, 2018 cannot constitute a waiver of the rules of 18th March, 2018 or acceptance of the pre-existing Rule 28(8). Statutory rules and powers and their application cannot be waived, on the same principle that fundamental rights cannot be waived.
24. The decision in the case of **Rayala Corporation (supra)** cited by Mr. Chaturvedi, distinguishing between repeal amendments and omissions cannot however be relied upon, in view of the decision of

Fibre Boards Private Ltd. vs Commissioner of Income Tax, Bangalore reported in **(2015) 10 SCC 333** cited by Mr. Sanyal.

25. The views of the Supreme Court in the **Rayala decision (supra)** have been found to be per incuriam and obiter.
26. What is however very relevant to consider in Paragraphs 29, 30 and 31 of the decision of the Supreme Court in the case of **Fibre Board Pvt. Ltd. decision (supra)**. They are set out hereinbelow.

“29. We may also point out that in G.P. Singh's *Principles of Statutory Interpretation*, 12th Edn., the learned author has criticised the aforesaid judgments in the following terms:

“Section 6 of the General Clauses Act applies to all types of repeals. The section applies whether the repeal be express or implied, entire or partial or whether it be repeal simpliciter or repeal accompanied by fresh legislation. The section also applies when a temporary statute is repealed before its expiry, but it has no application when such a statute is not repealed but comes to an end by expiry. The section on its own terms is limited to a repeal brought about by a Central Act or Regulation. A rule made under an Act is not a Central Act or Regulation and if a rule be repealed by another rule, Section 6 of the General Clauses Act will not be attracted. It has been so held in two Constitution Bench decisions. The passing observation in these cases that ‘Section 6 only applies to repeals and not to omissions’ needs reconsideration for omission of a provision results in abrogation or obliteration of that provision in the same way as it happens in repeal. The stress in these cases was on the question that a ‘rule’ not being a Central Act or Regulation, as defined in the General Clauses Act, omission or repeal of a ‘rule’ by another ‘rule’ does not attract Section 6 of the Act and proceedings initiated under the omitted rule cannot continue unless the new rule contains a saving clause to that effect.”(at pp. 697-98.)

30. In view of what has been stated hereinabove, perhaps the appropriate course in the present case would have been to refer the aforesaid judgment to a larger Bench. But we do not find the need to do so in view of what is stated by us hereinbelow.

31. First and foremost, it will be noticed that two reasons were given in *Rayala Corpn. (P) Ltd.* [(1969) 2 SCC 412] for distinguishing the Madhya Pradesh High Court judgment [1958 SCC OnLine MP 149 : AIR 1959 MP 93] . Ordinarily, both reasons would form the ratio decidendi for the said decision and both reasons would be binding upon us. But we find that once it is held that Section 6 of the General Clauses Act would itself not apply to a rule which is subordinate legislation as it applies only to a Central Act or Regulation, it would be wholly unnecessary to state that on a construction of the word “repeal” in Section 6 of the General Clauses Act, “omissions” made by the legislature would not be included. Assume, on the other hand, that the Constitution Bench had given two reasons for the non-applicability of Section 6 of the General Clauses Act. In such a situation, obviously both reasons would be ratio decidendi and would be binding upon a subsequent Bench. However, once it is found that Section 6 itself would not apply, it would be wholly superfluous to further state that on an interpretation of the word “repeal”, an “omission” would not be included. We are, therefore, of the view that the second so-called ratio of the Constitution Bench in *Rayala Corpn. (P) Ltd.* [(1969) 2 SCC 412] cannot be said to be a ratio decidendi at all and is really in the nature of obiter dicta.”

27. It is absolutely clear from the above that Sections 6 and 24 of the General Clauses Act have no manner of application to the 1969 Rules or its amendment by the Notification No. 216-SE dated 18th March, 2018. The said rules are not Statutes and not of the Central Government. Sections 6 and 24 of the General Clauses Act, 1897 apply only to Statutes and not to rules. They apply only to Statutes of the Central Government and not to any State laws, much less any rules. The argument to the contrary by Mr. Sanyal, therefore, cannot be accepted.

28. The arguments of Mr. Sanyal for the employee-petitioners that in both aided and unaided schools, the right to appoint and remove teaching and non-teaching staff is still controlled by the State, is equally

unacceptable as the very rules (the 1969 Rules) by which control was being exercised by the State, particularly Rule 28(8) thereof, did not exist as on the date of the proceedings against the employee-petitioners. To put it another way, as on the date of Notification dated 18th March, 2018, the Rule 28 (8) of the 1969 Rules stood omitted and/or extinguished. Any benefit sought to be derived by the employee-petitioners from the **R. Kapilnath decision (supra)** must also be viewed with hesitation in view of the dicta of the Supreme Court in the **Fibre Board case (supra)**.

29. It appears clearly from the facts of the said case that the fact that Section 6, 6A and 24 of the General Clauses Act, 1897 have no manner of application to State Legislation or any Rules, does not appear to have been considered or addressed in the **Kapilnath decision (supra)**.
30. The reference to the decision of the Supreme Court in the case of **UCO Bank and Anr. Vs. Rajinder Lal Capoor** reported in **(2008) 5 SCC 257** by Mr. Sanyal appears to be equally misplaced. In the said case the Supreme Court was concerned with application of Regulation 20(3)(ii) of the UCO Bank (Officers') Service Regulations, 1979.
31. It was held in the said case that issuance of a show cause notice, under the earlier Regulations of 1976, before the retirement of the employee cannot be amount to initiation or pendency of departmental proceedings before his superannuation, to entitle the bank to invoke Regulation 20(3)(ii) of the 1979 Regulation. The bank was held

disentitled to continue departmental proceedings against the petitioner therein. It was held that the show cause did not amount to charge sheet within the meaning of Regulation 20(3)(ii) of the 1979 Regulations.

32. The said decision has no manner of application to the facts of the instant case. Even under the omitted Regulation 28 (8) prior to 18th March, 2018, it was within the domain of school to issue charge sheet and receive a reply from the petitioner and prepare enquiry report.
33. The functions of the Board were to commence after the aforesaid documents are sent to the Board for approval. As on the 18th of March, 2018 no such documents were sent to the Board. The mere issuance of charge sheet/show cause by the school, cannot lead to any crystallization of any rights in favour of the employee-petitioners under Rule 28 (8) of the 1969 Rules. No final decision on the proceedings was taken by the Board or the school as on the 18th March, 2018.
34. For the reasons hereinabove, the impugned orders dated 25th September, 2018 passed by the West Bengal Board of Secondary Education are quashed and set aside for being without jurisdiction, authority or legal sanctity.
35. The school may take steps in accordance with any existing and/or applicable rules.

36. WPA No. 22714 of 2018 and WPA No. 22721 of 2018 are allowed and disposed of.
37. WPA No. 2561 of 2020 and WPA No. 2562 of 2020 are dismissed.
38. There shall be no order as to costs.
39. All parties are directed to act on a server copy of this judgment duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

Later

07.09.2022

After the judgment is delivered, counsel for the employee-petitioners seeks stay of operation of the order.

Considering the fact that the petitioners are not working or enjoying any benefit till now, the prayer for stay is considered and refused.

(Rajasekhar Mantha, J.)