

30.06.2022
Court No.13
Jalpaiguri
Item No.1
AP

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

WPA 1069 of 2022

**Partha Ghosh
Vs.
The State of West Bengal & Ors.**

Mr. Sudip Ghosh Chowdhury
... For the Petitioner.

Mr. Uday Sankar Chattopadhyay
Mr. Santanu Maji
Mr. Gobinda Ray
... For the Respondents.

Ms. Koyeli Bhattacharyya
... For the WBBSE.

The petitioner is aggrieved by the deduction of Rs.24490/- by the Dhupguri High School towards 28 days salary and allowances payable to him as Assistant Teacher.

It is alleged that the petitioner is guilty of misconduct, inter alia, in the form of unauthorized absence.

The Headmaster of the school has unilaterally deducted the aforesaid sums of money. The Headmaster says that repeated notices have been issued to the petitioner for refraining from improper conduct and unauthorized absence, but in vain.

The notices issued by the school to the writ petitioner and the complaint to the District Inspector

of Schools by the school against the writ petitioner are kept with the record.

The writ petitioner has not disclosed that WPA 884 of 2019 was filed which was disposed of by a Coordinate Bench on 9th December 2019, directing the respondent No.4 therein, i.e. the District Inspector of Schools, for deciding the petitioner's complaint against the headmaster.

The District Inspector of Schools has passed an order dated 11th February 2020, leaving the issue of misconduct by the petitioner at the discretion of the Headmaster.

The aforesaid order of the Court and the Order of the District Inspector of Schools dated 11th February 2020 are kept with the record.

Counsel for the Board submits that the Headmaster's complaint against the petitioner is pending consideration, and has not yet been disposed of. Likewise, the Headmaster's complaint against the writ petitioner before the District Inspector of Schools is also pending consideration.

In view of the above, this Court directs the entire matter to be considered by the West Bengal Board of Secondary Education. The consideration as directed would include disciplinary proceedings against the writ petitioner for any misconduct as may be found, to be dealt with under the applicable rules.

The Headmaster's conduct, as inter alia, indicated hereinabove, shall also be looked into by the Board.

This Court is of the view that the Headmaster did not have any jurisdiction to deduct any amount from the salaries of the writ petitioner, since the same amounts to penalty without due process of law.

The decision with regard to refund, if at all, of the aforesaid sums shall abide by the decision of the Board shall take in the matter.

Needless to mention, due process of law including furnishing of all documents and the principles of natural justice would be followed by the Board in compliance with the aforesaid directions.

With the aforesaid directions, the writ petition shall stand disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)