

g.b.
JC/1

24.06.
2022
Ct. No.17

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 1783 of 2021

**Mr. Kallol Guha & Anr.
Vs.
The State of West Bengal & Ors.**

**Mr. Subrata Mukhopadhyay
Ms. Basabi Rai Choudhury
Mr. Bandhu Brata Bhula
.....For the Petitioners
Mr. Kunaljit Bhattacharya
....For the Respondent No.6
Mr. Nadeem Sulaiman
Ms. Sunita Guha
....For the Madrasah Board**

Considering the urgency this matter of North Bengal Circuit Bench is taken up.

It is an admitted position while passing the order of the West Bengal Board Madrasah Education signed by its President dated 17.08.2021 bearing Memo No.17/Law/HG/21/MC dated 17.08.2021 that the present writ petitioner was not given any opportunity of hearing.

It has been submitted on behalf of the Headmaster of the Madrasah that on the first day there was no hearing. On the second day the petitioner was not present. The enquiry report has been set aside after such one days hearing. The

Headmaster was suspended and now he has been directed to join the school as a result of setting aside of the inquiry report. The Headmaster may join the school at any point of time. Serious Charge of defalcation of many is there against the said HM.

Therefore, virtually only one hearing took place where the present petitioner was not present and the final order was passed setting aside the meticulous report of the enquiry against the HM which is wholly against him. There was clear violation of natural justice. I do not understand when the Headmaster was suspended for quite some time what prejudice it would have caused either to the Headmaster or to the petitioner if another opportunity was granted to the petitioner for placing his version in respect of the inquiry report. It is evident that the President passed the order in undue haste.

Hence, the order passed by the President, West Bengal Board of Madrasah Education dated 17.08.2021 is partially quashed and set aside. The inquiry report is not set aside. It is still subsisting.

President of the Board is directed to hear the matter afresh giving opportunity of hearing to the petitioner and also to the Headmaster when he will submit his version of the case and, therefore, now there is no question of joining of the Headmaster in the said Madrasah.

I am not interfering with the other portion of the order of the President Board of Madrasah where the President has directed the District Inspector of Schools (S.E.), Jalpaiguri to send a proposal for appointment of an Administrator through proper channel. I am told by the learned advocate for the Board Mr. Nadeem Sulaiman that one Administrator has already been appointed and therefore, there is no impediment for the Administrator to run the administration of the school as there is no Managing Committee. However, I am told by the petitioner that a writ application is pending against such appointment of Administrator. The opportunity of hearing is to be given to the parties i.e. to the petitioner and to the suspended Headmaster within a period of 60 days from the date of communication of this order to the Board and there shall not be any endeavour on the part of the Headmaster to join the school and any endeavour on the part of any authority concerned for directing the Headmaster to join the school. The Headmaster shall not be allowed to join the school before expiry of 30 days from the date of receipt of the order to be passed by the President.

The writ application is thus disposed of.

As I have not called for any affidavit in this matter, the allegations made against the Board shall be deemed to have been not admitted by the respondents.

(Abhijit Gangopadhyay, J.)