

OD 4

WPO 2424 of 2022

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MOUSUMI SENGUPTA
VERSUS
THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble Justice RAJASEKHAR MANTHA

Date : 23rd August, 2022.

APPEARANCE:

Mr. Anjan Bhattacharya, Adv.

Mr. Tapan Kr. Mukherjee, Adv.

Ms. Tuli Sinha, Adv.

...for respondent nos. 1, 2 & 3

Ms. A. Chakraborty, Adv.

Mr. Priyanjit Kundu, Adv.

...for respondent no. 7

Mr. Tanoy Chakraborty, Adv.

Mr. Chhandak Dutta, Adv.

...for respondent no. 8

Ms. Koyeli Bhattacharyya, Adv.

...for WBBSE

The Court:- The writ petitioner is aggrieved on two-fold grounds. Firstly that she was not allowed to join the school despite an order of a Co-ordinate Bench dated 14th July, 2022 passed in WPA No. 14851 of 2022. It is next submitted that the preliminary enquiry conducted against the petitioner is contrary to law and the rules of the WBSE.

The petitioner's case as made out in the writ petition is that she was the Headmistress of Barasat Kalikrishna Girls' High School. She was absent for a period from 24th June, 2022 to 17th July, 2022. The school, however, submits that the petitioner was absent for a longer period. The reasons for absence are bad health. A teacher-in-charge was appointed in place of the petitioner.

The petitioner claims that she was prevented from rejoining her post and was constrained to file WPA No. 14851 of 2022. By the said order dated 14th July, 2022 (supra), a Co-ordinate Bench of this Court permitted the petitioner to join the school. Charge was directed to be handed over to her. The period of absence was to be decided by the appropriate authority.

The petitioner complains that she could not do so because certain papers were not made available to her. It is also submitted that some teachers and Teacher-in-charge shouted at her. Complaints in this regard have been made to the D.I. of Schools and the local police.

The petitioner has, therefore, prayed for a direction on the school to permit her to join. This Court notes that there is no recorded objection on the part of the school against her joining. Given the belligerence of the petitioner, the two persons from the office of D.I. of Schools were present to witness the joining, which the petitioner refused. The petitioner has not joined the school till date.

This Court is not satisfied with the explanation given by the petitioner. If the school did not allow her to join, the petitioner could have approached the Co-ordinate Bench in its contempt jurisdiction which she has not done. Instead she has continued to litigate frivolously.

The second ground urged is with regard to an enquiry by the West Bengal Board of Secondary Education, proposed against the petitioner.

It appears that the President of the school had written to the D.I. of Schools to initiate disciplinary proceedings against the petitioner for alleged misconduct. The D.I. of Schools has forwarded the complaint to the Board. The Board in turn has asked the D.I. to conduct a preliminary enquiry.

Mr. Bhattacharya, Counsel for the petitioner submits that the President could not have suo motu complained against the petitioner to the D.I. of Schools. Only the Secretary of the school could have communicated the decision of the managing committee to the Board seeking permission. This Court sees no serious infirmity in the resolution of the managing committee of the school being communicated by the President to the authorities. Indeed it is true that the Headmistress /teacher-in-charge is the Ex Officio Secretary of the school. The petitioner herself is the Headmistress. The TIC ought to have issued the communication to the Board. That, by itself, however, cannot amount to

any serious impropriety on the part of the school in referring the matter for enquiry against the petitioner.

The infraction of the management rules of 1972 as urged by Counsel for the petitioner is not so serious.

The next argument of Mr. Bhattacharya is that the request of the School for enquiry against the petitioner, ought to have been directed to the Board and not the DI. It is for the Board to have directed the DI to conduct an enquiry. This Court once again sees no serious infirmity in the procedure adopted against the petitioner. The DI has not acted unilaterally. He has referred the complaint of the school to the Board. It is the Board that has directed the DI to conduct a preliminary enquiry in terms of Rule 5 of the WBBSE (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching Staff) Rules, 2018. The preliminary enquiry ordered against the petitioner is substantially in accordance with law.

The last argument of Mr. Bhattacharya that the petitioner was not furnished with copies of the enquiry report or the decision of the Board pursuant to such enquiry cannot also be sustained. It is now well settled that no civil consequences arise out of any report of any preliminary enquiry in aid of a formal departmental proceeding. A right to a copy of the report may, when the employer or the management relies upon such preliminary enquiry report in course of any final finding against the petitioner.

This Court notes without hesitation that the petitioner has been unreasonable and rather obstinate. The grounds urged by the petitioner are to say the least baseless and appears largely to intimidate the school and the board and frustrate proceedings against her.

There is little or no demonstrated prejudice to the petitioner caused by the respondents. The writ petition is frivolous.

For the reasons stated hereinabove, the writ petition shall stand dismissed with costs assessed at Rs. 5100/- to be payable by the petitioner to the school.

The petitioner and the school shall refrain from precipitating the issues and shall ensure smooth and peaceful functioning of the school.

The proceedings against the petitioner shall be conducted uninfluenced by any observations made hereinabove.

Urgent xerox certified copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(RAJASEKHAR MANTHA, J.)