

40 13.02.2023
Sc Ct. no.22

WPA 2080 OF 2023

Syed Imroze Ali

Vs.

The State of West Bengal & Ors.

Mr. Piyush Chaturvedi
Sk. Rejaul Alam.

.... For the Petitioner

Ms. Chaitali Bhattacharya
Mr. Kartik Chandra Kapas.

.... For the State

Mr. Prosenjit Mukherjee
Mr. Nirmalya Kumar Das.

.... For the Respondent
Nos. 9 to 11

A series of writ petitions were filed by the writ petitioner who claimed to be an **Assistant Teacher at Panchpara High Madrasah (H.S.)**, suffered a proposal for dismissal from his service, had come for consideration before this Court.

By a consolidated judgment and order passed by this Court on November 23, 2022 principally, on the ground of violation of natural justice, the finding of the disciplinary authority terminating the employment of the petitioner from his service, as recorded on September 3, 2022, was set aside and quashed. The relevant observation made by this Court in the said order dated November 23, 2022 is quoted below :

“ The relevant disciplinary authority of the concerned Madrasah shall furnish the detail of charges on which the inquiry proceeding had commenced along with all the supporting materials and documents on the basis whereof

*the inquiry report was made, to the petitioner and/or his advocate on record positively on or before **December 5, 2022.***

The disciplinary authority then shall commence disciplinary proceeding de novo taking into consideration all the points to be urged by the petitioner including the points, according to the petitioner which would touch the inquiry proceeding and its validity, after granting an opportunity of hearing to the petitioner by serving at least a seven days' prior hearing notice to the petitioner and shall pass its reasoned decision taking into account all the points which shall be argued on behalf of the petitioner before it.

The petitioner shall also be at liberty to file written notes before the disciplinary authority at the time of commencement of the hearing before it.

*The entire exercise as directed above shall be carried out and completed by the disciplinary authority within a period of **six weeks** from the date of the first day of hearing to be fixed by the disciplinary authority without granting any unnecessary adjournment to anybody.*

*In view of the above, this series of writ petitions, namely, **WPA 11438 of 2022, WPA 12924 of 2021 and WPA 24028 of 2022 stand disposed of**, without any order as to costs."*

In this writ petition the petitioner contended that the complaints of the superiors and other staff members of the relevant madrasah as mentioned under **Query**

No.2 at the second page (at page 131 of this writ petition) of the communication of the relevant madrasah dated **January 6, 2023, Annexure - P26 to this writ petition** were not either supplied to the petitioner or the petitioner was not allowed to take inspection thereof.

Mr. Piyush Chaturvedi, learned counsel for the petitioner submitted that those being the foundation of the disciplinary proceeding, the entire disciplinary proceeding stood vitiated without the same being provided to the petitioner and the preliminary inquiry report was prepared without granting such an opportunity to the petitioner. The inquiry report was dated June 22, 2022 starts at **page 98** to the writ petition and continues up to **page 109** to the writ petition (the said inquiry report).

Mr. Chaturvedi, learned counsel further submitted that if this inquiry report dated June 22, 2022 is made redundant and the complaints as referred to above, filed by the superiors and other staff members of the madrasah are allowed to be considered by the petitioner, then the petitioner will have no objection whatsoever to face the inquiry proceeding which can be commenced afresh on the basis of the existing records.

Mr. Prosenjit Mukherjee, learned advocate appearing for the relevant madrasah, respondent nos. 9 to 11, referring to the statements made under **Query No.2 at page 131 to the writ petition** submitted that, the copies of those documents cannot be provided for, but

if this Court thinks fit, necessary direction can be made upon the petitioner to take inspection of the same in presence of the authorised representative of the respondent nos. 9 to 11.

Mr. Mukherjee, on instruction from his client, submitted that, the madrasah authority shall not rely upon the preliminary investigation report since there had been no preliminary investigation report on record or as on such report was prepared. It was only a preliminary investigation made on the basis whereof the chargesheet was issued.

Considering the rival contentions of the parties and considering the materials on record a worrying factor has come to the mind of this court that in the process of one after another litigations the ultimate inquiry and/or the disciplinary proceedings is getting stalled, which was suggested against the alleged delinquent petitioner by the relevant madrasah authority.

In view of the above and to expedite the process, liberty is granted to the petitioner to take inspection of the said complaints as mentioned in **Query No.2 at page 131 of the writ petition** at the office of the relevant madrasah **on February 18, 2023 and February 19, 2023 between 12-00 noon to 4-00 p.m.** as suggested by the parties. At the time of inspection the concerned inquiry officer shall be there in whose presence the said inquiry would be tendered to the petitioner. The

petitioner shall not be entitled to take any of his representatives or any person accompanying him.

After taking such inspection of the said complaints the petitioner shall be at liberty to file a supplementary reply to the chargesheet dated August 9, 2021 which shall be in addition to its original reply to the chargesheet dated December 8, 2022, **Annexure P-25** at pages 124 to 129 to the writ petition. **The said additional reply shall positively be restricted to only in respect of the said complaint mentioned under Query No.2 at page 131 to the writ petition of which the inspection shall be taken by the petitioner and not beyond that.** Such additional reply shall be filed by the petitioner on or before February 23, 2023 before the concerned Inquiry Officer.

The inquiry officer then shall proceed to hold the inquiry proceeding afresh and de novo on the basis of the existing records along with the said additional reply to the show cause to be submitted by the petitioner as directed above but shall not place any reliance and shall not take any cognizance on its earlier inquiry report dated June 22, 2022 appearing at pages 98 to 109 to the writ petition.

The said report shall be considered as redundant.

The inquiry officer shall proceed, carry out and complete the entire inquiry proceeding within 21 working days from the date of commencement of the said inquiry

proceeding which shall commence as suggested by the parties on February 25, 2023. The inquiry proceeding shall continue without granting any unnecessary adjournment to anybody. The inquiry report then shall be made ready by the inquiry officer positively by one week after the conclusion of the hearing of the parties.

After the said inquiry proceeding shall be concluded, all further necessary and consequential steps shall be taken to come to a reasonable and logical conclusion of the proceeding strictly in accordance with law as expeditiously as possible without any unnecessary accommodation to the parties.

In view of the above, the petitioner shall have no further grievance in respect of **Query No.5** mentioned in page 131 to the writ petition. In respect of the **Query Nos.1, 3, 4, 6, 7, 8 and 9** appearing at pages 131 to 133 to the writ petition, Mr. Chaturvedi learned counsel for the petitioner contended that if in addition to **the compilation of documents dated November 30, 2022 and January 16, 2023**, copies whereof have already been served upon the petitioner, any document is sought to be relied upon by the relevant madrasah, the petitioner shall be put on notice as to the same at least three days prior to the date when the madrasah shall propose to rely thereupon. This Court allows this request of the petitioner.

Insofar as the **Query No.10** at page 133 to the writ petition is concerned, the necessary documents had already been received by the writ petitioner. therefore, the petitioner shall have no further grievance on this **Query No.10**.

Insofar as the **Query No.11** at page 133 to the writ petition is concerned this will be a matter of evidence and inquiry before the relevant disciplinary proceeding. The petitioner cannot have any grievance against this **Query No.11**.

It is made clear that this Court has not gone into the merits of the allegations concerning the alleged charges against the petitioner in the disciplinary proceeding.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms this writ petition, **WPA 2080 of 2023** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)