

10.02.2023
Item No.8
Crt. No.11.
KB

MAT 807 of 2022
with
IA No. CAN 1 of 2022

Bapi Pramanik
Versus
State of West Bengal and Ors.

Mr. Biswaroop Bhattacharjee
Mr. Arijit Bakshi
Mr.Vivekananda Bose
Mr. Ratikanta Pal
... For the Appellant

Ms. Susmita Saha Dutta
Mr. Niladri Saha
Ms. Madhurima Basu
... For the Respondent
Nos. 6 and 7.

Mr. Santanu Kumar Mitra
Mr. Subhabrata Das
... For the State.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

The appellant/the Writ Petitioner is an Assistant
Teacher of the School-in-Issue.

Several allegations have been brought against the
appellant of overstaying on Medical Leave without such
Medical Leave being available to him in his service
record. Another allegation pertains to the alleged
misbehaviour of the appellant/the Writ Petitioner with

the girl students and female teachers in the School-in-Issue.

In respect of the second allegation (*supra*), there were public protest in the School-in-Issue and intervention had to be made by the local Raiganj Police Station.

A formal criminal proceeding was instituted against the appellant/the Writ Petitioner for which the appellant had to pray for Anticipatory bail before the appropriate Court. Upon compliance with the conditions of Anticipatory bail, the Hon'ble Division Bench relaxed the conditions.

The issue is the non-payment of salaries to the appellant. While Mr. Bhattacharjee submits that the urgency in considering this appeal has arisen from the fact of non-disbursement of the salaries of the appellant leading to denial of his sustenance, Ms. Saha Dutta, Learned Counsel appearing for the School-in-Issue points out that despite notice, the appellant has not co-operated with the School Authority in regularising either his leave as well as the conditions relating to discharge of his regular service. The School-in-Issue is also claiming an adjustment of over drawal amount by the Writ Petitioner/the appellant.

A further issue connected to this appeal pertains to the proposal for transfer of the appellant from the present

School-in-Issue to another School for avoidance of the situation arising out of his alleged misbehaviour with the girl students and the female teachers of the School-in-Issue.

The District Inspector of Schools (Secondary Education), Uttar Dinajpur has filed a Report in the form of an Affidavit pursuing the earlier Order of this Court dated 18th August, 2022. The District Inspector of Schools (Secondary Education), Uttar Dinajpur is also personally present in Court in view of the previous Order of this Court dated 31st August, 2022.

The District Inspector of Schools (Secondary Education), Uttar Dinajpur is represented by Mr. Mitra, Learned Counsel with Mr. Das, Learned Counsel.

Heard the parties.

Considered all the materials placed.

The attention of this Court is drawn to the Order impugned of the Hon'ble Single Bench dated 28th April, 2022 in the Writ Petition. The Hon'ble Single Bench had taken notice of overstaying on Medical Leave by the appellant/the Writ Petitioner and the fact that the appellant/the Writ Petitioner was yet to produce the Fitness Certificate before the School-in-Issue.

The Hon'ble Single Bench was also of the view that the question of payment of salary to the appellant/the

Writ Petitioner can be only decided after the parties are given an opportunity of being heard.

Accordingly, the Hon'ble Single Bench granted an opportunity to exchange affidavits.

Ms. Susmita Saha Dutta, Learned Counsel appearing for the School-in-Issue produces before this Court an Affidavit-in-Opposition which was intended to be used on behalf of the School-in-Issue before the Hon'ble Single Bench.

This Court upon a close assessment of the diverse facts emanating from the discussion above is of the view that the Order of the Hon'ble Single Bench suffers from no apparent infirmity.

The rights of the parties have not been settled in view of the intention expressed by the Hon'ble Single Bench while deciding on the issues proposed after giving an opportunity of hearing to the parties.

Accordingly, the matter is remanded back to the Hon'ble Single Bench to be decided on affidavits.

The personal appearance of the District Inspector of Schools (Secondary Education), Uttar Dinajpur stands dispensed with.

MAT 807 of 2022 with **IA No. CAN 1 of 2022** stands accordingly **disposed of**.

All parties to act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Supratim Bhattacharya, J.)

(Subrata Talukdar, J.)