

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

Present :

The Hon'ble Justice Bibek Chaudhuri

C.R.R. 1605 of 2023

Bithi Dutta

Vs.

The State of West Bengal & Anr.

For the petitioner : **Mr. Ayan Bhattacharjee, Adv.**
Mr. Dipanjan Dutta, Adv.
Ms. Sudeshna Basu Thakur, Adv.
Ms. U. Das, Adv.

**For the De-facto
Complainant** : **Mr. Arindam Jana, Adv.**
Mr. Bikram Banerjee, Adv.
Mr. Sudipto Dasgupta, Adv.
Mr. Arka Nandi, Adv.
Mr.S. Sutradhar, Adv.
Ms. Shalini Ghosh, Adv.

For the State : **Mr. Avishek Sinha, Adv.**

Heard on : **18.05.2023.**

Judgment On : **18.05.2023.**

Bibek Chaudhuri, J.

The petitioner has approached this Court filing an application under Section 482 of the Code of Criminal Procedure praying for quashing of a proceeding being Dum Dum Police Station Case No.28 of 2023 dated 12th January, 2023 under Sections 384/467/468/471/506 of the Indian Penal Code.

It is the allegation made by the complainant against the petitioner that the petitioner used fake certificate relating to her teachers training issued in the year 2002 and obtained a contractual employment as Assistant Teacher in the year 2021 in the educational institution of which the de-facto complainant is the present Secretary.

It is submitted on behalf of the de-facto complainant/opposite party that after he became the Secretary, he started taking information about the academic qualification of the teachers and came to know deriving information from RTI Act that the National Institute of Management is not recognized by NCTE and Section 17(4) provides, "If an institution offers any course or training in teacher education after the coming into force of the order withdrawing recognition under sub-section (1), or where an institution offering a course or training in teacher education immediately before the appointed day fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course of training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government, any State Government or University, or in any school, college or other educational body aided by the Central Government or any State Government."

Thus, it is the case of the complainant that the petitioner's qualification from a non-recognized teachers training institute does not permit her to be appointed as an Assistant Teacher. According to the complainant this amounts to a deliberate act of forgery.

The learned Advocate on behalf of the petitioner, on the other hand, submits that the petitioner obtained teachers training from the said institute which has now been stated to be a non-recognized institute in the year 2001. Section 17(4) of the Code of Criminal Procedure speaks about a cut off date after which any teacher trained from non-recognized institute will be treated to be invalid but the opposite party has failed to state the cut off date when the provision of Section 17(4) has been made mandatory.

It is further submitted by the learned Advocate for the petitioner that the petitioner has been working as a teacher of the institute since 2002. For a brief period from 2018 to 2021 she had to resign as teacher from the said school on her personal ground. Thereafter, she joined the school again in 2021. During this long period of time, petitioner's academic qualification and teachers training was not disputed. Moreover, St. Stephen School, Dum Dum is not an educational institution aided either by Central Government or by State Government. It is affiliated to CISC, New Delhi. Affiliation to impart education upon a particular course and Government aided institution are two different types of educational institutions. Therefore, it is a disputed question of fact as to whether at all Section 17(4) is applicable in respect of a private institution or not.

It is also submitted on behalf of the petitioner that the instant complaint is a retaliatory act on the part of the Secretary of the school. Therefore, there are lots of disputed facts, which needs to be investigated. For such investigation, only documentary evidence is required. In order to prove forgery, this Court has every doubt after going through the

documents submitted by both the parties as to whether custodial interrogation of the petitioner is necessary under Section 397 of the Code of Criminal Procedure in exceptional circumstances, even the Court can pass an order equivalent to an order of bail.

In view of the above discussion, this Court finds that this is a fit case where investigation should continue but in course of investigation, the Investigating Officer shall not take any coercive step against the petitioner except examining her by issuing notice under Section 41A of the Code of Criminal Procedure or calling upon her to produce documents etc. for the purpose of the case.

In view of the above order, nothing remains in the instant revision and, accordingly, the same is disposed of.

(Bibek Chaudhuri, J.)

***Mithun De/
A.R. (Ct).
SI No.06.
D/L.***