

Item-1. 01-09-2023

sg Ct. 8

MAT 1047 of 2023
CAN 1 of 2023

Samikkha Sinha
Versus
The State of West Bengal & Ors.

Mr. Firdous Samim, Adv.
Ms. Gopa Biswas, Adv.
Ms. Payel Shome, Adv.
Ms. Sampriiti Saha, Adv.

...for the appellant

Mr. Bhaskar Prasad Vaishya, Adv.
Mr. Nilay Baran Mandal, Adv.
Mrs. Swati Sharma, Adv.

...for D.P.S.C. Kolkata

Mr. Indradip Das, Adv.

...for the respondent no.9

Mr. Ratul Biswas, Adv.
Mr. Kaushik Chowdhury, Adv.

...for the Board

Mr. Biswabrata Basu Malick, Adv.
Ms. Mrilanini Majumdar, Adv.

...for the State

1. Allegations and counter allegations have been made with regard to the conduct of the teacher. The writ petitioner was in the school for almost six years.
2. A resolution has been placed before this Court in which the District Inspector of Schools and teachers of the said school were present in the meeting. In the said meeting, it was resolved that the writ petitioner either be placed under disciplinary proceedings as per rule or be transferred to another school on administrative ground. Rule 53(2) of the West Bengal Primary Education Act, 1973 has been interpreted in favour of the Chairman to exercise power in an emergency situation.
3. The school authority justified in transferring the teacher on administrative ground, on the basis of the allegations

recorded in the minutes of the meeting in which the Chairman was authorized to take an appropriate decision. It appears that District Inspector of Schools (P.E.) was present in the meeting and accordingly, the said decision was taken by a statutory authority having the authority to decide in an emergency situation.

4. However, having regard to the nature of the allegations and the counter allegations we feel that the Chairman, in exercise of power under Section 53(2) of the said Act, shall revisit the issue after giving a reasonable opportunity of hearing to the writ petitioner and to all the interested parties and decide the matter.
5. In view of the fact that the transfer has already been given effect to, without prejudice to the rights and contentions of the writ petitioner, she shall join the transferred post subject to the decision taken by the Chairman in this regard.
6. The Chairman is requested to decide the matter within a period of four weeks from date and communicate the said decision to the writ petitioner within a week thereafter. The Chairman shall decide the matter afresh on the materials to be made available by the parties.
7. In the event, the Chairman is of the view that the earlier transfer order is required to be recalled, appropriate direction should be passed in this regard.
8. The impugned order is modified to the aforesaid extent.
9. The appeal and the connected application are, thus, disposed of.
10. Urgent photostat certified copy of this order, if applied for,

be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)