

Court No.
17.02.2023

(Item No. 30)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 27274 of 2022

Naba Kumar Basak
VS
The State of West Bengal & Ors.

Mr. Samiran Giri
..... For the petitioner
Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey
..... For respondent No. 6

Two affidavits of service filed in Court today,
are taken on record.

The petitioner claimed to be the **Head Master**
at **Balibela High School (H.S.), District - Hooghly**.
By an order **dated February 7, 2020** passed in **WP**
1902(W) of 2020 by a co-ordinate Bench the
jurisdictional District Inspector of Schools was
directed to recommend suspension of the petitioner/
Head Master and salary of the petitioner was directed
not to be paid. The relevant observations are quoted
below:

*“With regard to the non-complaint Headmaster,
it is to be noted by me that the District Inspector of
Schools (S.E.), in its letter dated December 30, 2019
has already written that Departmental Proceeding
shall be initiated against the Headmaster in case of
non-compliance by the Headmaster.*

*It is clear from the records that the Headmaster
has not complied with the directions of this Court as
also directions given by the District Inspector of
Schools (S.E.), Hooghly.*

In the light of the same, I direct the District Inspector of Schools (S.E.), Hooghly, to recommend suspension of the Headmaster forthwith to the West Bengal Board of Secondary Education by February 11, 2020 (Tuesday) and on receipt of the same, the West Bengal Board of Secondary Education should immediately initiate steps in this regard.

I further direct that the salary of the Headmaster should not be paid to him till the completion of the disciplinary proceedings.

As the present order has been passed in the peculiar facts and circumstances of the present case, the same shall not act as a precedent.

With the aforesaid direction, the writ petition is disposed of.”

The petitioner then carried out an appeal being **FMA 54 of 2021** from the said order of the co-ordinate Bench when the appeal was disposed of with the following observation made by the Hon'ble Division Bench in its order dated February 4, 2021:

“After hearing the learned Counsel for the parties, we feel that the following paragraphs of the impugned order dated 7th February 2020 was not required:-

“In the light of the same, I direct the District Inspector of Schools (S.E.), Hooghly, to recommend suspension of the Headmaster forthwith to the West Bengal Board of Secondary Education by February 11, 2020 (Tuesday” and on receipt of the same, the West Bengal Board of Secondary Education should immediately initiate steps in this regard.

I further direct that the salary of the Headmaster should not be paid to him till the completion of the disciplinary proceedings.”

The aforesaid observations and directions of the learned Single Judge are set aside. However, we make it clear that we have not interfered with the order of the District Inspect of Schools (S.E.), Hooghly dated 30th December, 2019 recommending disciplinary proceeding. The said order is also not under challenge. We only expect that the said proceeding to be completed within a reasonable time following the procedure required to be adhered to in terms of the relevant rules.

With the aforesaid observation, the appeal and the connected application stands disposed of.”

Mr. Samiran Giri, leaned advocate for the petitioner submitted that, despite the said order being passed by the Hon’ble Division Bench the salary of the petitioner still is being withheld by the respondent State authority for the period during **February 1, 2020 to January 31, 2021**. He submitted that, thereafter the petitioner has been receiving the due salary, except the above period.

Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader appeared for respondent Nos. 1 to 4.

Considering the submissions made on behalf of the appearing parties and after considering the materials on records to sub-serve justice, the respondent No. 3 is directed to consider the representation of the petitioner dated **November 9, 2022, Annexure P-15** at **page 65** to the writ petition in the light of the said order of the Division Bench dated **February 4, 2021, Annexure P-7** at **page 44**

to the writ petition after giving at least seven days prior hearing notice to the petitioner and then after giving him an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the respondent No. 3 positively within a period of four weeks from the date of communication of this order. The respondent No. 3 then shall communicate his reasoned order to the petitioner within a further period of two weeks from the said reasoned order to be passed. The respondent No. 3 thereafter shall take all necessary and consequential steps to give effect to its reasoned order positively within a further period of two weeks from the date of communication of the said order to the petitioner.

It is made clear that, this Court has not gone into the merit of the claim of the petitioner in any manner. The petitioner shall be at liberty to urge all the points and to rely upon whatever records and documents he wishes to rely upon before the respondent No. 3.

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

On the above terms, this writ petition being **WPA 27274 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)