

03.01.2023

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WPA 27970 of 2022

Sanatan Das
Vs.
The University of Gour Banga & Ors.

Mr. Kallol Basu
Mr. Suman Banerjee
... For the petitioner.

Dr. Madhusudan Saha Roy
... For the University.

The petitioner has challenged a letter dated November 29, 2022 issued by the Vice-Chancellor of University of Gour Banga. By the said letter the petitioner was asked to intimate his reaction with regard to a report received from the High Education Department, Government of West Bengal.

Mr. Basu, learned advocate appearing for the petitioner submits that on the self-same issue on earlier occasion the Executive Council of the University exonerated the petitioner from the allegations levelled against him. Therefore, the said issue cannot be reopened by the Vice-Chancellor. It has been further argued by Mr. Basu that the power to take a disciplinary action lies with the Executive Council of the University. Therefore, the Vice-Chancellor has acted beyond his jurisdiction in issuing the letter impugned. Mr. Basu has drawn my attention to the different

provision First Statute of University of Gour Banga to suggest that only in case of emergency the Vice-Chancellor can assume the jurisdiction of the executive council.

According to Mr. Basu, the facts and circumstances of this case do not justify the invocation of emergency power of the Vice-Chancellor.

Mr. Basu has further drawn the attention of this Court to an interim order passed by this Court on November 18, 2022 in WPA 24955 of 2022 (Dr. Sanatan Das -vs- The University of Gour Banga) whereby this Court permitted the petitioner to function and discharge all duties as a member of Executive Council with a rider that he would not participate in any deliberation or decision making process of the Executive Council relating to the disciplinary proceedings pending against him or any other issues involving him. Mr. Basu submits that an appeal has been preferred against the dated November 18, 2022 by the University and in the stay application filed in connection with the appeal, it has been specifically averred that the said interim order would ultimately embolden the writ petitioner to disturb the daily function and management of the institution.

I do not see any reason to interfere with the impugned letter of the Vice-Chancellor. The Vice-

Chancellor has simply sought the petitioner's response to a report received by him from the Higher Education Department, Government of West Bengal. The disciplinary proceeding has not been initiated against the petitioner. Therefore, the question of exercise of emergency power by usurpation of the jurisdiction of the Executive Council to initiate the disciplinary proceeding does not arise at this stage. The petitioner at this juncture has no reason to be aggrieved by the impugned letter until and unless the competent authority decides to proceed with the disciplinary proceedings against the petitioner.

With the above observations, WPA 27970 of 2022 is disposed of.

There will be no order as to costs.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)