

23.11.2023

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WPA 7796 of 2020

Mrs. Mithu Sadhu

Vs.

State of West Bengal & Ors.

Mr. Debasish Banerjee

Mr. Rakesh Jana

... For the petitioner.

Mr. Mani Sankar Chattopadhyay

... For respondent no. 4.

The petitioner was an Assistant Professor in the department of Computer Science and Engineering at Seacom Engineering College, Howrah.

It is the grievance of the petitioner that her service was illegally terminated by the college. The petitioner has prayed for release of arrear salary for the period from November 2013 to August 2020 together with interest.

The college disputes that the service of the petitioner was terminated illegally. The college submits that the petitioner left her service voluntarily.

The relevant college, against which the relief is sought for, is run by a private trust. The trust is not under the administrative control of the State and it does not receive any grant from the State. The college is only affiliated with Maulana Abul Kalam Azad University of Technology.

I am of the view that the relevant college is not amenable to writ jurisdiction.

Learned advocate appearing for the petitioner, to urge the maintainability of the writ petition, has relied upon a judgment reported at **(2020) 14 SCC 449 (Marwari Balika Vidyalaya vs. Asha Srivastava and others)**.

The aforesaid judgment has been considered by a later judgment of Supreme Court reported at **(2023) 4 SCC 498 (St. Mary's Education Society and another vs. Rajendra Prasad Bhargava and Others)**.

In **St. Mary's** case, the Supreme Court has held that the mere fact that the relevant college in question is subject to regulatory control of the State, or even that the action impugned before the writ court is a regulatory control of the State, does not sufficiently by itself amount to make proceedings amenable to writ jurisdiction. It is only if the action impugned before the writ court itself involves or has nexus with public duty/function/element, will writ jurisdiction be attracted.

The judgment relied upon by the learned advocate for the petitioner in **Marwari Balika Vidyalaya** case was distinguished by the Supreme Court in **St. Mary's** case holding that **Marwari Balika Vidyalaya** the school was receiving any grant to the extent Dearness Allowance.

The appointment and the removal of employees in that school were required to be approved by the District Inspector of Schools (PE).

The appointment of the petitioner in this case did not require any statutory approval and it could not be said that termination of the service of the petitioner involves or has any nexus with public duty, function or element.

In that view of the matter, the writ petition is not entertained.

Accordingly, **WPA 7796 of 2020** is dismissed.

I, however, make it clear that dismissal of the writ petition shall not prevent the petitioner from seeking relief before the appropriate forum in accordance with law.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)