

5 03.08.2023
 jb.
 Jdt.

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

**W.P.A. 1221 of 2023
(Prabir Debnath vs. State of West Bengal & Ors.)**

Mr. Arnab Saha
 ... For the Petitioner
Mr. Bikramaditya Ghosh
Mr. Pretom Das
 ... For the State

Affidavit of service filed on behalf of the petitioner is taken on record.

None appears for the 7th and 8th respondents despite service.

The petitioner is an assistant teacher of Salsabari Model High School and intends to pursue Ph.D programme in Biotechnology. The petitioner applied for leave on 8th January, 2022 and by an order passed on the same day, the Headmaster of the school issued a no objection in favour of the petitioner for pursuing the Ph.D. programme. The petitioner submitted a subsequent application before the District Inspector of Schools (S.E.) on 20th June, 2022 seeking clarification about government guidelines pertaining to receipt of monthly salary during the leave period since the salary received from the profession was his only source of livelihood. By a resolution taken on 10th September, 2022 the Managing Committee of the school held that the Committee had no authority to recommend a regular mode of studies since absence of the petitioner shall hamper the curriculum of

the school. The Committee further resolved that the Committee would not be responsible for any problem which may arise due to absence of the petitioner. The said resolution was forwarded to the District Inspector of Schools (SE) by the Committee. The District Inspector of Schools (SE) issued a letter to the President, West Bengal Board of Secondary Education on 22nd September, 2022 enclosing the proceeding of the Managing Committee made on 10th September, 2022 and sought instruction from the latter. In reply to the said letter, the Deputy Secretary (Academic), West Bengal Board of Secondary Education, by a letter issued on 21st November, 2022, informed that no objection certificate to continue Ph. D course by the petitioner may be granted by the competent authority after the application is approved by the Managing Committee and forwarded to the District Inspector of Schools as per rule 4(23) of 214-SE/S/10M-01/18 dated 8th March, 2018.

Learned counsel for the petitioner as well as the District Inspector of Schools (S.E.) submit that the Secretary to the Managing Committee being the 7th respondent herein and the Headmaster, Salsalabari Model High School (H.S.) being the 8th respondent herein be directed to take a decision in terms of the letter issued by the West Bengal Board of Secondary Education.

In view of the above, the writ petition is disposed of directing the 7th and 8th respondents to take a reasoned decision in terms of the letter issued by the Deputy Secretary (Academic), West Bengal Board of Secondary Education to the District Inspector of Schools, Cooch

Behar on 21st November, 2022 within two weeks from the date of communication of this order upon affording reasonable opportunity of hearing to the petitioner, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

There will be no order as to costs.

Since no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

Since the 7th and 8th respondents are not represented, the petitioner is directed to serve a copy of this order along with a copy of the letter issued by the West Bengal Board of Secondary Education dated 21st November, 2022 to the 7th and 8th respondents at the earliest.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J)