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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/68/2023
WITH WPO/2424/2022
IA NO: GA/1/2022
MOUSUMI SENGUPTA
VS
THE STAT OF WEST BENGAL AND ORS.

BEFORE:
THE HON'BLE JUSTICE SOUMEN SEN
AND
The HON'BLE JUSTICE UDAY KUMAR
Date : 13TH JULY, 2023.

Appearance :
Mr. Anjan Bhattacharjee, Adv.
...for appellant.
Ms. Koyeli Bhattacharyya, Adv.
...for W.B.B.S.E.
Mr. Tapan Kumar Mukherjee, Sr. Adv.,
Ms. Tuli Sinha, Adv.
...for State Respondents.

The Court : The appeal is arising out of an order dated 23.8.2022 in a writ petition filed by the appellant challenging the authority of the Board to issue a show cause notice in the given facts and circumstances of the case.

The appellant was the Head Mistress of Barasat Kalikrishna Girls' High School. She was absent for a period from 24.6.2022 to 17.7.2022. It appears from the order of the learned single Bench that the School contended in the writ proceeding that the petitioner was absent for a long time. The reasons for absent are eminently due to bad health. She had produced certificates to show that she was unwell during the aforesaid period. The appellant contended that she was not allowed to resume her duty as a Head Mistress which, ultimately, was restored to her in terms of the order passed by the Co-

ordinate Bench on 15.3.2023 on the basis of a report filed by a Special Officer appointed to ensure that she could join her service. It is not in dispute that she complained about the School authorities not permitting her to resume her duty. The trial Judge did not accept the explanation offered by the petitioner for not being able to resume her duty solely on the ground that she could have approached the contempt jurisdiction of this Court. We do not agree with the said observation. She in fact had filed litigation where she has repeatedly contended that she was not allowed to resume her duty. In fact, there was no past misconduct alleged against the writ petitioner. This time curiously the President of the School decided to initiate a disciplinary proceeding against the writ petitioner and it was alleged that on a meeting held on 25.6.2022 a resolution was taken which, inter alia, include that the petitioner during the lockdown did not take on-line classes and that she disrespected the teacher belonging to the Muslim community of the School. However, the original minutes of the meeting were not produced. The Managing Committee consists of 12 members. It appears from the resolution book that out of 12 members 8 members were present in which such resolution was taken. Mr. Bhattacharjee, learned advocate for the appellant submits that the resolution is not in conflict with the relevant rules as in case of emergency meeting; relevant rules requires 24 hours notice. Although the notice was not produced by the School the resolution annexed to the writ petition would show that about eight members were present and they had taken a unanimous decision to initiate disciplinary proceeding for the aforesaid alleged misconduct. However, the Board did not immediately accept the said complaint but directed a preliminary inquiry to be initiated after it

was communicated to the Board by the District Inspector of Schools. The appellant has nothing to say with regard to the preliminary inquiry report unless the said report is relied upon in the disciplinary proceeding. The preliminary inquiry is conducted merely to ascertain whether prima facie case exists for issuing a show cause notice. The disciplinary proceeding can be dropped if the authorities concerned are satisfied with the explanation offered by the delinquent. However, it appears that a show cause notice has been issued and the disciplinary proceeding has been initiated and charge sheet has been filed. In the disciplinary proceeding it would always be open for the appellant to contend that the charges framed are false, malicious, without any basis and jurisdiction.

In view of the fact that the grievance of the writ petitioner was limited to her not being allowed to join her duty has now been redressed the appeal is allowed to the aforesaid extent. The cost awarded by the learned Single Bench is set aside.

We make it clear that the observations made with regard to the disciplinary proceeding are only limited to the issues raised and decided and shall not affect the pending writ petition where the initiation of the disciplinary proceeding has been challenged.

The appeal and the application stand disposed of. However, there will be no order as to costs.

(SOUMEN SEN, J.)

(UDAY KUMAR, J.)