

08.04.2024
Item No.19 (DL)
Court No.18
AJ.

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

W.P.A. 3174 of 2024

**Sibasish Deb
-Vs-
The State of West Bengal & Ors.**

Mr. Sakti Pada Jana,
Mr. Subhajyoti Das.
.....for the petitioner.

Mr. Anand Farmania,
Mr. Mamoj Kumar Mondal.
.....for the State.

Affidavit of service filed on behalf of the
petitioner be kept with the record.

The petitioner is an Assistant Teacher at
Khayerbari Balihara High School, District:
Dakshin Dinajpur of the subject 'Physical
Science'.

The petitioner intends to pursue Ph.D. in the
subject Chemistry under the North Bengal
University, he, on August 14, 2023, applied before
the School Authority for "No-Objection" Certificate
with the undertakings that to pursue the said
course, he would not apply for any special leave,
and shall complete it without hampering his duty
in the school. The further undertaking of the
petitioner was that on completion of the course,
he would not claim any financial benefit.

The Managing Committee of the School, by its resolution dated October 12, 2023 had refused to issue such “No-Objection” Certificate in favour of the petitioner.

The petitioner, in WPA 21413 of 2023, had challenged the said decision of the school authority. The said challenge was disposed of by the Co-ordinate Bench of this Court vide order dated December 15, 2023 directing the District Inspector of Schools (S.E.), District: Dakshin Dinajpur, the respondent no. 3 herein to take a decision on the said prayer of the petitioner as per the order of the Government of West Bengal, School Education Department (Secondary Branch) bearing Memo No.438/1(28)-SE/S/SP-19/09 dated May 19, 2014 after giving the petitioner and the School Authority an opportunity of hearing.

The respondent no. 3, by order bearing Memo No. 02/DD/Law dated January 04, 2023, has disposed of the direction of the Co-ordinate Bench holding that the order dated May 19, 2014 though has been cancelled by a subsequent Memo of the Department bearing No.566-SE/S/5P-19/09 dated July 08, 2014 but the matter since has been referred by the Hon’ble High Court, no decision could be taken without a review of the

decision of the Co-ordinate Bench dated December 15, 2023.

The petitioner approached the Co-ordinate Bench praying for such review but was not entertained as the prayer for issuance of “No-Objection” Certificate is based on a different cause of action.

Mr. Jana, learned Advocate for the petitioner submits that though the order dated May 19, 2014 was cancelled by the order dated July 08, 2014 with a rider that a revised order will be issued subsequently but no such revised order has been issued till date instead the order of the Department bearing No. 548-SE(S) dated June 24, 1997 is operating the field, he prays that the prayer of the petitioner for the said Certificate be considered in the light of the said order.

The petitioner is seeking permission to complete his Ph.D. course with the undertakings that he would pursue the said course without praying for any leave or without hampering his regular duty in the school. He has given a further undertaking that upon completion of the said course, he would not claim any financial benefit out of it, in view of such undertakings, there cannot be any plausible ground to refuse his said prayer, however the objective satisfaction of the

school authority in allowing or rejecting the said prayer of the petitioner, is necessary.

The respondent no.3 therefore is directed to consider the prayer of the petitioner for such “No-Objection” Certificate within a period of four weeks from the date of communication of this order after giving the petitioner and the School authority an opportunity of hearing, keeping in mind the mandate of the aforementioned Departmental order dated June 24, 1997.

In the event it is found that the petitioner is entitled to the said permission, the School authority shall issue the necessary certificate within a period of two weeks from the date of the said decision of the respondent no. 3.

WPA 3174 of 2024 is disposed of with the above terms without any order as to costs.

Since no affidavit has been invited, the allegations made in the said writ petition are deemed to have been denied by the respondents.

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

(Biswajit Basu, J.)