

10.01.2024

Item No.7

Ct. No.238

dc.

W.P.A. 6669 of 2023

**Dr. Arpita Banerjee nee Arpita
Banerjee Chattopadhyay
versus
State of West Bengal & Ors.**

Mr. Kallol Basu,
Ms. Soumi Guha Thakurta ... For the Petitioner.

Mr. Subhrangsu Panda,
Ms. Mithu Singha Mahapatra
... For the Respondent No.3.

Mr. Monish Sen,
Ms. Oisani Mukherjee ... For the Respondent No.5.

Mr. Biswaroop Bhattacharya,
Mr. Sumitava Chakraborty,
Mr. Abhishek Mukherjee ... For the Respondent No. 7.

Mr. Anil Kumar Gupta ... For the UGC.

The facts involved in this case will be apparent from the order passed by this Court on April 19, 2023. The same is quoted below :

“The petitioner lodged a complaint under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 against the Principal of the relevant College where she holds the position of an Assistant Professor in Political Science. The Principal has been impleaded as respondent no. 7 in this petition.

Her complaint was enquired into by the Internal Complaints Committee. The Committee by its report dated February 16, 2023 came to a conclusion that the allegations of sexual harassment against the Principal of the College had not been proved.

The Committee further recommended that the Governing Body of the College should consider

taking action against the petitioner for defaming the Principal of the College.

Immediately, after the said recommendation, the petitioner was served with a show cause notice on February 24, 2023, by the Governing Body for furnishing an explanation as to why appropriate punitive action should not be taken against the petitioner for lodging the false, baseless and frivolous complaint against the Principal of the College. After considering her reply, the Governing Body on March 13, 2023 resolved to issue a chargesheet against her.

I am of the view that there is a provision for appeal within a period of 30 days before the appellate authority against the finding of the Internal Complaints Committee. The Governing Body of the College should not have proceeded against the petitioner before the appeal period was over.

It has been, however, submitted by the learned advocate representing the Governing Body that the Governing Body will not proceed to issue any chargesheet against the petitioner provided the petitioner prefers the appeal against the report of the Internal Complaints Committee.

I am of the view that this matter should be heard on exchange of affidavits.

Let the affidavit-in-opposition be filed by the respondents within four weeks from date; reply, if any, may be filed by the petitioner within two weeks thereafter.

List this matter after six weeks under the heading 'Hearing'.

In view of the facts as recorded above, the resolution of the Governing Body dated March 13, 2023, is stayed for a period of eight weeks from date or until further orders whichever is earlier."

Today it has been submitted by Mr. Basu, learned advocate appearing for the petitioner that the petitioner is willing to prefer an appeal before the Additional Labour Commissioner, Industrial Tribunal in view of the judgement passed by this Court in WPA 2009 of 2023 (Parama Bhattacharjee Vs. State).

In that view of the matter nothing further remains to be decided in this writ petition. I grant liberty to the petitioner to prefer an appeal before the said authority within a period of four weeks from date. If such an appeal is preferred by the petitioner within four weeks from date, the appellate authority shall condone the delay, if any, in preferring the appeal.

If the petitioner prefers an appeal within the time limit as indicated above, the interim order shall continue for a period of six weeks from date. Thereafter the decision either to vacate or continue the interim order shall rest with the Appellate Authority at its discretion.

It is desirable that appeal preferred by the petitioner should be disposed of by the appellate authority as expeditiously as possible preferably within a period of three months from the date of this order.

With the aforesaid directions and observations, WPA 6669 of 2023 is disposed of.

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

(Kausik Chanda, J.)