

14.06.2024
Court No.13
Item No.43
AP

WPA 8842 of 2024

**Brajesh Kumar
Vs.
The State of West Bengal and Ors.**

Mr. Washef Ali Mondal

... for the petitioner.

Mr. Biswabrata Basu Mallick,

... for the DPSC, Hooghly.

1. The petitioner is an assistant teacher in Ramkrishna Bimala Bala Hindi Primary School. In respect of a private dispute outside the scope of the employment, he was arrested on 28th May, 2023 in connection with FIR No. 245 of 2023 dated 27.05.2023.

2. By operation of Rule 7 of the Notification No. 906-SE(Pry.) dated 09.07.2001 the concerned teacher was placed on suspension from the date of his detention till the disposal of the criminal case against him.

3. It appears that the petitioner has been enlarged on bail by the learned Sessions Judge, Hooghly in Criminal Misc. Case No. 1327 of 2023 on 5th September, 2023. The State has not found the petitioner therefore a threat to society at large.

4. In respect of analyzing Rule 7 and the principles of deemed suspension under Rule 7 of the West Bengal Primary Education (conduct of service of teachers of Primary Schools) Rules of 2001, a Division Bench of this

Court had passed a detailed judgement in AST No. 2593 of 2008 on 03.12.2008 (Birbhum District Primary School Council and another Vs. Md. Mokhtar Hossain and others).

5. In the said decision, the propriety of an order of suspension being carried on indefinitely without review in view of a deeming provision was seriously questioned by the Division Bench. In the instant case it is seen that the petitioner has been enlarged on bail and not found to be a threat to the society.

6. In the aforesaid facts, to keep the petitioner under suspension and pay him subsistence allowance, is neither rational nor makes any economic sense for the State. One could have understood an order of suspension being passed in respect of any acts or omissions that may have been committed in course of employment. The object of suspension of an employee in such case is to prevent him from tampering with the evidence against him, influencing witnesses and causing embarrassment to fellow teachers and employees.

7. In the instant case, there is no allegation of any moral turpitude also against the petitioner. The criminal case against him arose out of a private dispute. As already stated herein above, there is no rationale behind keeping the petitioner in a suspension until disposal of the criminal case.

8. Criminal cases take a substantially long period of time for their conclusion and completion. It is a loss for the State to pay half salary to the petitioner and also depriving the students, for such indefinite and prolonged period.

9. In the above circumstances, this Court is of the view that the Chairman, DPSC, Hooghly/respondent no. 7 must review the order of suspension forthwith and pass suitable orders within a period of ten days of receipt of a copy of this order.

10. Needless to mention that in the event of any conviction of the petitioner, consequences under the aforesaid Rules of 2001 shall follow on the petitioner.

11. The petitioner shall communicate this order to the DPSC and make a detailed representation enclosing therewith all documents within 48 hours.

12. The writ petition is disposed of.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)