

W.P.A. 8884 of 2024
Sekander Rabidas
Vs.

The State of West Bengal & Ors.

Mr. Anjan Bhattacharya,
Ms. Anita Shaw ... For the petitioner.

Mr. Bhaskar Prasad Vaisya, AGP,
Mr. Ranjan Saha ... For the State.

Ms. Koyeli Bhattacharyya ... For the WBBSE.

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

The petitioner is the suspended Headmaster of Rajballavpur
High School (H.S.), Maslandapur, District – 24 Parganas (North).

On the complaint of the President of the Managing Committee,
one lady part time teacher, guardian of a student and other
teachers and staffs of the said school, the District Inspector of
Schools (S.E.) and Assistant Inspector of Schools, District – 24
Parganas (North) had conducted an inquiry and forwarded the
report of such inquiry to the President of the West Bengal Board
of Secondary Education, the respondent no. 4A herein.

The President of the Board, by a notice dated February 09,
2024 had asked the petitioner to show cause as to why punitive
measures will not be taken against him for the charges mentioned
in the said notice. The said show cause notice was followed by the
order of suspension of the petitioner dated March 19, 2024.

The petitioner has challenged the said show cause notice and
the said order of suspension on the ground that same have been
issued in violation of the Sub-Rules(1) and (2) of Rule 5 of The
West Bengal Board of Secondary Education (Appointment,

Confirmation, Conduct and Discipline of Teacher and Non-teaching staff) Rules 2018 (hereinafter referred to as the 'said Rules of 2018' in short).

Mr. Bhattacharyya, learned advocate for the petitioner submits that the preliminary inquiry has not been conducted on the authorization of the Board as required under Rule 5(1) of the said Rules of 2018, as such issuance of show-cause notice and order of suspension on the basis of such inquiry are bad in law.

Ms. Bhattacharyya, learned advocate for the Board submits that by virtue of Rule 5(12) of the said Rules of 2018, the Board is competent to initiate *suo motu* disciplinary proceeding against a teaching and non-teaching Staff, if there is reason to believe that any misconduct has been committed by the said teaching or non-teaching Staff.

Having heard the learned counsel for the parties and on perusal of the materials-on-record, it appears that the concerned District Inspector of Schools and Assistant Inspector of Schools, on receipt of complaints against the petitioner from a lady teacher, the President of the Managing Committee of the School and others, had conducted an inquiry and had found *prima facie* materials justifying the allegations of the said complaints.

The said inquiry report was forwarded to the Board and as the Disciplinary Authority, the Board, being satisfied that there is reason to believe that misconduct has been committed by the petitioner, had initiated a disciplinary proceeding against him in exercise of its power under Sub-Rule(12) of Rule 5 of the said Rules of 2018 and in consequence thereof, the show-cause notice was issued, as such Sub-Rule (1) or Sub-Rule (2) thereof has no manner of application in the matter of issuance of the said show-

cause notice, besides, the petitioner has already replied to the said show-cause notice. In view of such position of the matter, challenge to the said show-cause notice is overruled.

The Board, under Sub-Rule(1)(b) of Rule 6 of the said Rules of 2018 has the power to issue the order of suspension against a teaching and non-teaching Staff for any alleged misconduct.

The petitioner has been leveled with the allegations of misconduct and the President of the Board, in exercise of its power under the aforementioned provision of the said Rules of 2018 has issued the order of suspension, therefore challenge to the said order also fails.

In view of the above, the writ petition being W.P.A. 8884 of 2024 is therefore, dismissed. There shall however be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official website of the Court.

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.)