

09.05.2024
Item No.67
Ct. No.238
S.A.

WPA 9282 of 2024

Jayeeta Ray
-vs-
State of West Bengal & Ors.

Mr. Subir Sanyal
Mr. Bratin Kumar Dey
Mr. Pushan Chattopadhyay
Mr. Sourojit Mukherjee
...for the petitioner
Mr. Soumyo Majumdar
Mr. Pratik Majumdar
Mr. Kinnor Ghosh
...for the university
Mr. Sirsanya Bandopadhyay
Mr. Debopriyo Karar
...for the State

The petitioner impugns an order dated March 1, 2024 issued by the Registrar of Rabindra Bharati University whereby the petitioner was asked to handover the charge of Head, Department of English to Professor Chidananda Bhattacharya, respondent no.5 with effect from March 2, 2024 in contemplation of an enquiry against her.

Mr. Sanyal, learned advocate appearing for the petitioner submits that the petitioner has been removed from the post of Head, Department of English without affording any opportunity of hearing. Such removal is not sustainable.

Mr. Pratik Majumdar, representing the university, on the other hand, submits that appointment to the post of Head of the Department is

only an assignment of duty, it cannot be treated to be a regular appointment. There are number of allegations against the petitioner. For the interest of enquiry, it is necessary to keep the petitioner out of that post, so that the relevant documents are not tampered with. He further submits that the petitioner has not cooperated with the enquiry on the pretext of pendency of the writ petition. He submits that the university will conclude the proceedings against the petitioner as expeditiously as possible. By removing her from the post of Head, Department of English, no right has been infringed.

I am unable to accept the stand of the university. The post of Head of the Department of the university is a statutory one. Section 22(ii) of the Rabindra Bharati Act, 1981 mentions the post.

It further appears that the Executive Council of the university by a resolution dated April 6, 1992 resolved, inter alia, as follows :

“1.(a) In every teaching department of the University there shall be a Head of the Department who shall be appointed by the Vice-Chancellor for a period of two years by rotation in order of seniority from amongst the whole-time permanent University teachers enjoying the U.G.C. scale of pay and not below the rank of a Reader.”

In that view of the matter, it cannot be said that the appointment as a Head of the Department is temporary in nature. Any Head of the Department of the university is entitled to continue with the post for two years and it is a regular appointment.

In the present case, the petitioner has been removed without any opportunity of hearing simply based on some allegations made against her even before conclusion of the enquiry. She could not have been removed prematurely from the post without due compliance of natural justice. I also find no substance in the stand of the university that the petitioner may tamper with the evidence if she is reinstated. The order impugned was passed on March 1, 2022 and since then, more than two months have passed. Therefore, the university should reinstate the petitioner to the post of Head of the Department, within a period of three days from date. It is clarified that this order of reinstatement shall not stand in the way of the university to complete the enquiry proceedings against the petitioner and to take steps in accordance with law.

Accordingly, **WPA 9282 of 2024** is allowed by setting aside the order dated March 1, 2022.

(Kausik Chanda, J.)