

09.05.2024
Item No.23
Court No.11
Avijit Mitra

WPST 85 of 2024

Dr. Rana Roy
- Versus -
State of West Bengal & ors.

Mr. Susanta Pal,
Mr. Amit Kumar Dutt
...for the petitioner
Mr. Tapan Kumar Mukherjee, Id. A.G.P.,
Ms. Sangeeta Roy
....for the State respondents

Mr. Pal, learned advocate appearing for the petitioner submits that the petitioner is an Associate Professor in History at Acharya B.N. Seal College, Cooch Behar. On the basis of a complaint lodged against the petitioner, a criminal case was registered against him being Tala Police Station Case No.60 of 2023 dated 2nd September, 2023 under Sections 354/354(A)(1)(ii)/354D/509/419/420/506 of the Indian Penal Code. In connection with the said criminal case, he was arrested and was detained. In view thereof, by a memo dated 15th September, 2023 issued by the Deputy Secretary, Higher Education Department he was placed under suspension. No show cause was issued prior to issuance of the order of suspension and no disciplinary proceeding has been initiated. Challenging the said order of suspension, the petitioner approached the learned Tribunal by filing an original application being O.A. No.17 of 2024. The same was heard by the learned

Tribunal on 22nd February, 2024 and was directed to be listed under the heading '*Admission Hearing*' on 9th July, 2024.

He argues that the allegation levelled against the petitioner has no nexus with his service, is not related to his official position and is also not pertaining to his workplace. In view thereof, he cannot be kept under suspension for an indefinite period. Ventilating such grievance, he submitted a representation to the Deputy Secretary, Higher Education Department on 27th September, 2023 praying for recalling the order of suspension.

Drawing our attention to the averments made in paragraph 9 of the writ petition, Mr. Pal submits that for preponement of hearing of the original application, the petitioner submitted an application but the same was not accepted. Thus, there is no scope towards disposal of the original application in the near future. The petitioner has been rendered remediless. The respondent authorities have also maintained a deceptive silence and have not considered the representation dated 27th September, 2023. In such circumstances, the petitioner is facing unsurmountable inconvenience and his right to livelihood is at stake.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents denies and disputes the contention of the petitioner and submits that the allegations levelled against the petitioner are grave.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It is well settled that an order of suspension cannot continue for an indefinite period. The term '*until further orders*' in Rule 7(3) of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 cannot be construed to be of an indeterminate period and the appointing authority is under an obligation to reconsider the issue of continuance or revocation of the same. Any inaction on the part of the appointing authority can fall for scrutiny.

The order of suspension in the instant case has continued for a period of more than seven months which adversely affects the petitioner's livelihood. The learned Tribunal has fixed the matter in the month of July, 2024 and as such there is no scope towards disposal of the original application in the near future. The appointing authority ought to have considered and disposed of the petitioner's prayer for revocation of the order of suspension as contained in the representation dated 27th September, 2023. In the said conspectus, no useful purpose will be served by keeping the original application pending and the issue needs to be relegated to the appropriate authority.

Accordingly, both the original application and the present writ petition are disposed of granting liberty to the petitioner to submit a representation for reconsideration

and revocation of his order of suspension dated 15th September, 2023 to the respondent no.4 through proper channel within a period of two weeks from date.

In the event such representation is submitted, the respondent no.4 shall consider the same, upon granting an opportunity to the petitioner and take a reasoned decision, in accordance with law and communicate the same to the petitioner.

The above exercise shall be completed within a period of four weeks from the date of receipt of the representation.

It is made clear that the respondent no.4 would be at liberty to consider the representation himself/herself or to delegate such authority to a competent officer.

We have not gone into the merits of the petitioner's claim and all points are left open to be considered by the competent officer.

With the above observations and directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)