

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Present:
The Hon'ble Justice Jay Sengupta

WPA 14244 of 2024

**Dhiman Roy
Vs.
The State of West Bengal & Ors.**

For the Petitioner	:	Mr. Firdous Samim, Ms. Gopa Biswas, Ms. Payel Shome, Mr. Avijit Kar
For the respondent No.5	:	Mr. Abhijit Basu, Ms. Susmita Saha Dutta, Mr. Niladri Saha, Ms. Madhurima Basu
For the respondent No.4	:	Mr. Gaurav Das, Ms. Madhumanti Das
For the State	:	Mr. Swapan Kr. Datta, Mr. Dipankar Das Gupta
Heard on	:	11.07.2024
Judgment on :	:	11.07.2024

Jay Sengupta, J.:

This is an application challenging an order of suspension dated 23.12.2023 passed by the Principal of a college.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is an assistant professor in the subject of English at Sree Chaitanya College, Habra. Certain allegations were made by some students on the question of sexual harassment against the petitioner. These are absolutely false. However, the governing body took it up as an agenda and it appears from the records that three members had taken different views on the course of action. There was no consensus arrived at that the petitioner needs to be suspended. In spite of this, by the impugned letter dated 23.12.2023 the Principal of the College suspended the petitioner. This could not have been done by the Principal, if at all. According to Section 11 of the West Bengal College Teachers (Security of Service) Act, 1975, it is the general body which is to take decision about whether to suspend a teacher pending an investigation or enquiry or trial. Since the Governing body was specifically entrusted upon with such power, the same could not have been delegated to the Principal or any other officer. In fact, there is no specific delegation in this regard. Yet the Principal came to such perverse finding about suspension of the teacher.

Learned counsel appearing on behalf of the members of the College denies the allegation and submits as follows. The Principal had only acted on a resolution of the Governing Body that he was supposed to act upon. His decision was based on the findings of the Internal Complaints Committee.

Learned counsel appearing on behalf of the added respondent No. 4 also denies the allegation and submits as follows. There is no difference of

opinion between the said respondent and the Principal of the College. Certain allegations were made pursuant to which the Governing Body took a resolution. It appears that pursuant to the same the Principal acted in a particular way. If the same suffers from any technical defect, the Governing Body should be at liberty to take appropriate decision in this regard in relation to the question of suspension. When the Governing Body meeting was convened all the records were not before it.

It appears from Section 11 of the Act of 1975 that the General Body was entrusted to decide a question of suspension of a teacher pending enquiry or in respect of criminal offence concerning moral turpitude during investigation or trial. From the tenor of the provision, it does not appear that such power could be delegated by the General Body to the Principal. In fact, the resolution in question also does not even clearly do so.

In view of the above, the impugned letter of suspension issued against the petitioner is set aside on the technical ground that the Principal, unlike the Governing Body, could not have issued such letter.

However, the Principal shall forward the records including the findings of the ICC, if any, to the Governing Body to take a decision on the question of suspension of the petitioner on such allegation, whenever the Governing Body convenes.

The Governing Body of the College shall be at liberty to decide on the question of suspension of the petitioner on the allegations made.

With these observations, the writ petition is disposed of.

However, the merits of the case have not been gone into.

Urgent photostat certified copy of this judgement, if applied for, be given to the applicant upon compliance of requisite formalities.

(JAY SENGUPTA, J)

PM