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28.11.2024
Ct. No. 18
(ARPAN)

W.P.A. 26976 of 2024

**Bijoy Das
Vs.
The State of West Bengal & Ors.**

Mr. Anjan Bhattacharya
Ms. Anita Shaw

...for the Petitioner

Mr. Supriyo Chattopadhyay
Mr. Sabyasachi Mondal

...for the State

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
Ms. Keya Panja

...for the WBBSE

Mr. Sandip Kumar De

...for the Respondent no.7

Mr. Sharanya Chatterjee
Mr. Ayaskanta Ghosh

...for the Respondent nos.5 & 6

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

By filing the writ petition, *inter alia*, challenge
has been thrown to the order dated 30th September, 2024
issued by the President, Ad-hoc Committee, West Bengal
Board of Secondary Education whereby President has
refused to revoke order of suspension passed against the
petitioner on 8th July, 2024. It is further submitted on
behalf of the petitioner that he is an Assistant Teacher of
Raniganj High School (H.S.), District: Paschim

Bardhaman (hereinafter referred to as 'said school') and on false allegation of physically assaulting the Headmaster of the said school on 22nd June, 2024 petitioner was suspended and taking note of the fact petitioner was arrested on 22nd June, 2024 in connection with a criminal case being Raniganj Police Station Case No.205 of 2024 dated 22nd June, 2024. It is further submitted that since petitioner was enlarged on bail on 27th June, 2024, he should have been permitted to resume duty as Assistant Teacher in the said school on revocation of suspension order dated 8th July, 2024. On same plea, previously a writ petition was filed being W.P.A. No. 21921 of 2024 which was disposed of by this court vide order dated 9th September, 2024 directing the President of the Board to take decision in connection with one representation made by the petitioner dated 13th August, 2024 relating to revocation of suspension. President of the Board has taken decision refusing to revoke the suspension order vide order dated 30th September, 2024 which is the subject matter of challenge in this writ petition.

In support of such contention, learned advocate representing the petitioner has placed reliance on an order dated 28th June, 2024 passed by a Co-ordinate Bench in a writ petition being W.P.A. No. 16409 of 2024 (Papiya Mondal v. The State of West Bengal & Ors.) where certain observations were made by the Co-ordinate

Bench. Such writ petition was preferred by the wife of the petitioner who was alleged to have been involved in an untoward incident which took place in the school premises on 22nd June, 2024.

On behalf of Board submission has been made based on observations made by the President in his order dated 30th September, 2024 and it has been submitted that this court *vide* previous order dated 9th September, 2024 directed the President of the Board to take decision on revocation of suspension of the petitioner if it is found that resumption of duty of the petitioner would not hamper the normal functioning of the institution. It is contended on behalf of the Board that the nature of incident, which took place on 22nd June, 2024, narrated in the order dated 30th September, 2024 goes to show that it is not advisable to permit the petitioner to resume duty during continuation of disciplinary proceedings initiated against the petitioner.

Having considered the rival submissions made on behalf of the parties and taking note of the observations made by the President of the Board in the order dated 30th September, 2024, it appears that petitioner was not arrested in connection with an incident which took place outside the said school premises. Allegation made against the petitioner in connection with an incident dated 22nd June, 2024 was that during school hours when petitioner was on duty

being an Assistant Teacher, he physically assaulted the Headmaster as a result whereof the Headmaster sustained injury. A criminal case was initiated on 22nd June, 2024 in connection of which petitioner was arrested on 22nd June, 2024 subsequently enlarged on bail on 27th June, 2024.

Submission has been made on behalf of the petitioner that since he was enlarged on bail on 27th June, 2024 and before taking decision by the President of the Board on 30th September, 2024 report of the District Inspector of Schools (S.E.), Paschim Bardhaman dated 24th September, 2024 was not furnished to him, therefore, decision making process followed by the President got vitiated requiring quashing of the order dated 30th September, 2024.

Considering entire gamut of the situation and specially the alleged incident which took place on 22nd June, 2024 in the said school premises this court finds that specific observation has been made by the President in his order dated 30th September, 2024 based on video footages which were produced during course of hearing by the Headmaster of the said school. It is not a case that petitioner was not granted opportunity to make deliberation before the President of the Board since allegation against the petitioner was he assaulted the Headmaster of the said school causing bodily injury resulting in initiation of criminal proceedings on 22nd

June, 2024 as a result whereof petitioner was arrested for more than 48 hours. This court finds while adjudicating the legality of the order dated 30th September, 2024 non-supply of report dated 24th September, 2024 is not fatal that would frustrate the decision making process of the President of the Board.

This court while disposing of the first writ petition being W.P.A. No. 21921 of 2024 specifically directed that while taking decision on the fate of the suspension order passed against the petitioner, it should be taken into consideration whether resumption of duty of the petitioner would hamper normal functioning of the institution or not. On perusal of the order dated 30th September, 2024 this court finds that the President has come to a *prima facie* finding with regard to the incident which took place on 22nd June, 2024 involving the petitioner herein which is sufficient to take decision relating to continuation of suspension in contemplation of disciplinary proceedings against the petitioner.

In aforesaid conspectus this court does not find it fit to interfere with the order dated 30th September, 2024 passed by the President of the Board deciding not to revoke the suspension, at this stage.

Hence, writ petition stands dismissed. However, West Bengal Board of Secondary Education is directed to take steps for concluding the disciplinary proceedings against the petitioner in a time bound manner strictly in

terms of the provisions as contained in West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-teaching Staff) Rules, 2018.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)