

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 1159 of 2023

Sagar Chakraborty

VS

The Union of India & Ors.

Before : The Hon'ble Justice M.V. Muralidaran

Mr. Amalesh Roy,

Mr. Suman Sehanabis (Mondal),

----- for the petitioner.

Mr. Sudipto Kumar Mazumder, Ld. DSGI,

Mr. Sourab Kar,

----- for the Union of India.

Mr. Narendra Nath Das,

Mr. Pragyadip Roy Basunia,

Mr. Madhab Kumar Roy,

----- for the respondent nos. 4 to 8.

Hearing concluded on :

11.01.2024

Judgment On :

25.01.2024

M.V. Muralidaran, J.:

This writ petition has been filed by the petitioner to rescind/cancel and/or withdraw the letter of termination dated 26.3.2023 issued by the 7th respondent and to direct the respondent authorities to forthwith reinstate the petitioner in service in the concerned school.

2. Heard learned counsel for the petitioner and the learned counsel for the respondents 1 to 3 and the learned counsel for the respondents 4 to 8.

3. The case of the petitioner is that the petitioner was serving as an Assistant Teacher in a school, namely Suresh Chandra Ghosh English Academy at Mathabhanga, Cooch Behar. According to the by-laws of the CBSE Rules, 2018, the teaching and non-teaching staff of its affiliated institutions are to be guided by the Central Civil Services (Classification, Control and Appeal), Rules, 1965. While so, the school authorities, all on a sudden, terminated the petitioner from his service vide letter of termination dated 26.03.2023 without following the procedure as

enumerated in Rules 11, 12, 13 and 14 of the Rules of 1965. Due to which, the petitioner has been deprived from defending himself by filing written statement of defense, which caused utter violation of the principles of natural justice as well as constitutional right of the petitioner. Hence, the petitioner has filed this writ petition for interference of this Court by invoking writ jurisdiction under Article 226 of the Constitution of India.

4. Respondents 4 to 8 filed affidavit-in-opposition stating that the Government of India, Ministry of Education and Social Welfare, has no business with the present dispute as the dispute is purely private in nature and not statutory one. The institution CBSE is a society registered under the Societies Registration Act, 1860 and it is an autonomous registered body having its own rules and by-laws for recognition, control of respective schools and imparting education in Higher Secondary level. But none of the rules and by-laws has come out of any statute or statutory provision. Thus the action/inaction for violation of its rules and by-laws are not the subject of statute or statutory provision of the Government. As such, the action or inaction by the respondent school authority against the teacher is not amenable under writ jurisdiction. It is a dispute between the management of the school and the employee

concerned, i.e., private and contractual in nature which has to be dealt with some other appropriate forum as per the rules and by-laws framed by the CBSE or for violation of contractual agreement. The right has also not come up from a statute having enforceability of it. Thus, dispute as arisen in this petition is not statutory relief or the power fountains not from the source of statute. Thus, the present writ petition is not maintainable.

5. It is further stated that the petitioner is in no way an employee of Central Government and, as such, the application of the said Rules as claimed by the writ petitioner, are misconceived and misspelt. The petitioner is not governed by the above noted Central Service Rules. The respondent school authorities have issued the certificate in question in favour of the petitioner for avoiding any future complications in his future life in case of future employment and the school authority has knowingly avoided to mention all other ill-activities of the petitioner therein and, thus, the said letter has got no relevance in this issue. The activities of the petitioner would reveal from the termination letter dated 26.03.2023. The environment in and around the institution at the time termination of the petitioner was so rough and tough that it was urgent and immediate necessity of the institution to deal with the petitioner in

such an awkward situation for keeping the peaceful and educational atmosphere of the institution.

6. It is stated that the petitioner was working as a Vice Principal of the institution, but due to his rough, adamant and unbecoming of an ideal teacher, the Managing Committee, getting no other alternative, has given the petitioner two options, either to resign from the post of Vice Principal or to face degradation under due process of rules. The petitioner took the option of resignation from the post and, accordingly, he resigned from the post. It is further stated that petitioner is at liberty to ventilate his grievances before the appropriate forum and especially not to ventilate before this Court as not being maintainable. Thus, the writ petition is liable to be dismissed.

7. The petitioner filed affidavit-in-reply stating that undisputedly the CBSE is discharging public functions in the arena of imparting education, basically in the secondary education, but the issue involved in the present case, where the purported termination of the service of the petitioner by the school authorities without initiation of disciplinary proceeding is per se, illegal and violative of the principles of natural justice and such action is amenable to the writ jurisdiction. The concerned school is affiliated to

the CBSE and the services of the Assistant Teachers of the said school are governed by the CBSE by-laws, which speak that the disciplinary action against the teacher of the school affiliated under such Board is to be undergone under the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Rules of 1965 is framed under Article 312 of the Constitution of India and thereby there is statutory flavour in the action of termination of the service of the Assistant Teacher of the school, which is affiliated under the CBSE.

8. It is stated that the respondent authorities do not care about the procedures as laid down in the said Rules of 1965 to deal with the termination of the teachers of the said school under the CBSE Board by initiating disciplinary proceedings. The cause shows by the concerned authorities for termination of the service of the petitioner is not at all substantive and sustainable in the eye of law and cannot be a ground for termination of an Assistant Teacher without initiation of disciplinary proceedings before imposition of the highest penalty to an employee. The action of the respondent authorities regarding termination of the service of the petitioner was pre-planned and motivated. The concerned authorities perfunctorily created atmosphere in such a nature and manner, the writ petitioner had to resign from the post of Vice-Principal.

The entire acts and actions of the respondent-School authorities are, therefore, complete violation of the principles of natural justice. The respondent authorities have given a go-bye to follow the said Rules of 1965 for the reasons best known to them.

9. It is further stated that the respondent school has admitted the fact that the said school is guided by the by-laws of the CBSE, 2018 and if so Clause 5.3 of the by-laws of the CBSE is clearly stated that the school under the Board shall define the service rules of the teaching and non-teaching and lines of the service rules of the employees of the appropriate Government. In such circumstances, the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is the relevant rules to deal with the procedures of the disciplinary proceedings or procedures for imposition of penalties of teachers of the schools, which are affiliated under the CBSE. The respondent-School has already admitted that the purported action of termination of the petitioner is without following the procedure.

10. Assailing the impugned termination letter, the learned counsel for the petitioner submitted that the termination of the petitioner has been made without conducting any proceeding as also without giving any

opportunity of hearing to the petitioner for filing his written statement of defense, which is utter violation of due process of law before imposing the highest penalty upon the petitioner. The arbitrary action on the part of the concerned authority has not only infringed the relevant procedures as enumerated in the Central Civil Services (Classification, Control and Appeal) Rules, 1965, but also in gross violation of the principles of natural justice as well as the constitutional right of the petitioner as guaranteed under Article 21 of the Constitution of India.

11. The learned counsel for the petitioner would submit that on 06.04.2023 the petitioner made a representation to the school authorities to furnish him a copy of the resolution adopted in the Executive Committee meeting allegedly held on 01.04.2023 pursuant to which the petitioner has been terminated from his service as well as the letter of allegation as allegedly submitted to the Secretary by the Vice-Principal of the said school, but the concerned authorities have not given any reply to the said representation made by the petitioner on 06.04.2023, even after receiving the same.

12. The learned counsel further submitted that the CBSE under the control of the Government of India are discharging public functions by

imparting education to the pupils upto Class X standard through the affiliated institutions. Hence, the affiliated institutions under the CBSE are also discharging public functions to conduct examinations of the students and classes as well and to grant of certificate and/or mark-sheet on behalf of the CBSE. Therefore, any action of the affiliated institution including the disciplinary action against teaching and non-teaching staff of such institutions is also subject to law amenable to the writ jurisdiction. In other way, termination of employment of a teacher without holding any disciplinary proceeding or without giving any proper notice or giving him opportunity to defend his case, would also be violative of the principles of natural justice and would transgress the right to liberty and right to life as guaranteed under Article 21 read with Article 300(A) of the Constitution of India.

13. The learned counsel for the petitioner vehemently argued that without any rhyme or reason, the petitioner has been dismissed from service that too without following any of the procedures as stated in the said Rules of 1965. The school authorities, while dismissing the petitioner from service, did not comply with the provisions of the said Rules by conducting a disciplinary proceeding thereby supplying the petitioner with the Article of Charge, Statement of imputation of misconduct and

misbehaviour, list of documents and witness by which such Article of Charge is proposed to be sustained. In a word, the petitioner has not been granted any opportunity of hearing by filing his written statement of defense before his termination. Thus, a prayer has been made to set aside the impugned termination letter and to reinstate the petitioner into service.

14. Per contra, the learned counsel appearing for the contesting respondents 4 to 8 submitted that firstly the plea of the petitioner raised in the writ petition is not related to any business of discharging the public function. As the affiliation of the respondent school is under CBSE which is not a statutory body but only a society under the Societies Registration Act, 1860. The respondent school affiliated to it is not a creature of statute and hence, the CBSE nor the school nor its society is a statutory body and, as such, the action or inaction by the respondent school against the teacher is not amenable under writ jurisdiction. It is a dispute between the management of the school and employee concerned, which has to be dealt with in other forum. Further, the petitioner is in no an employee of the Central Government, therefore, the petitioner cannot seek the aid of the Rules of 1965.

15. The learned counsel further submitted that the activities of the petitioner would reveal from the termination letter. The petitioner was working as Vice-Principal of the institution. Due to his adamant and unbecoming of an ideal teacher, the Managing Committee had given the petitioner two options either to resign or to face degradation under due process of rules. Accordingly, the petitioner selected the option of resignation from the post and he had also resigned from the post.

16. The learned counsel then submitted that the letter dated 6.4.2023 for getting copy of resolution pursuant to the meeting held on 1.4.2023 is not the business of the petitioner and the same is not contextual for determining the issue raised by the petitioner.

17. The learned counsel would submit that the relief claimed by the petitioner cannot be dealt with in the present writ petition, as the petitioner has to ventilate his grievances before the appropriate forum and not before this Court. The contractual arrangement between the management of school authority and the employee concerned is a non-statutory right of the petitioner. The right has also not come up from a statute having enforceability of it. Thus, the dispute as arisen in the present petition is not statutory relief or the power fountains not from the

source of statute. Therefore, the present writ petition is not maintainable and the same is liable to be dismissed.

18. The learned counsel for the respondents urged that the unaided private minority schools over which the Government has no administrative control because of their autonomy under Article 30(1) of the Constitution of India are not "State" within the meaning of Article 12 of the Constitution of India. As the right to equality under Article 14 of the Constitution of India is available against the State, it cannot be claimed against unaided private minority private schools.

19. Placing reliance upon a Full Bench of the Allahabad High Court in *Roychan Abraham V. State of U.P.*, 2019 SCC OnLine All 3935, the learned counsel for the respondents argued that even if it be assumed that an educational institution is imparting public duty, the act complained of must have direct nexus with the discharge of public duty. Thus, a prayer has been made to dismiss the writ petition.

20. This Court considered the rival submissions and also perused the materials available on record.

21. There is no dispute that Suresh Chandra Ghosh English Academy run by a society registered under the West Bengal Societies Registration Act, 1961, is affiliated to CBSE, which falls in the category of private school as per affiliation by-laws, 2018 of CBSE. The petitioner was appointed to the post of Assistant Teacher of the said school vide appointment letter dated 1.9.2015. He had also performed the role of Vice-Principal of the school.

22. It is the say of the petitioner that, all of a sudden, the service of the petitioner as Assistant Teacher of the school was terminated vide letter dated 26.3.2023 with effect from April, 2023. According to the petitioner, the termination of the petitioner was pre-planned and motivated and the concerned authorities perfunctorily created atmosphere in such a nature and manner that the petitioner has to resign from the post of Vice-Principal. The entire action of the respondent school authorities is in complete violation of the principles of natural justice.

23. The impugned termination letter dated 26.3.2023 has been issued by the Secretary, SCG English Academy, which reads thus:

"Dear Mr. SagarChakraborty,

It is with great regret that I must inform you that as of 1st April, 2023 your position as an assistant teacher at S.C.G. English Academy, Mathabhanga be terminated.

Reasons behind termination:

1) Most of the assistant teachers accuse you of being involved in different types of malpractices.

2) You have verbally abused Vice Principal, Mr. Hemanta Barman due to your removal from different class groups.

3) You have different times misbehaved with society members in different situations. One of our society members was badly heckled by you in his house.

All members of the executive council after careful consideration have decided to sack you from the school w.e.f. 1st April, 2023.

Until when he worked in this institution he had taken responsibilities and adhered to those with dedication.

We wish him luck for his future endeavors."

24. Admittedly, the petitioner was terminated without holding any enquiry/disciplinary proceeding. No reasonable opportunity was given to the petitioner to defend his case before the termination. However, the respondents urged the question of maintainability of the writ petition on the following grounds:

- (i) It is a private school;
- (ii) The service of the petitioner is guided by a private contract;
- (iii) No public element is involved in case of termination of the writ petitioner's service;
- (iv) There is no violation of statutory provision in terminating the service of the petitioner as Assistant Teacher of the school;

25. To buttress the aforesaid grounds, the learned counsel for the respondents relied upon the decision of the Hon'ble Supreme Court in the case of *St. Maries Educational Society and another v. Rajendra Prasad Bhargava and others*, (2023) 4 SCC 498.

26. In *St. Maries Educational Society*, supra, the Hon'ble Supreme Court summed up its conclusion as under:

"75. We may sum up our final conclusions as under:

75.1. An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element.

Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.

75.2. Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element.

75.3. It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a constitutional court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the

statutory provisions. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.

75.4. Even if it be perceived that imparting education by private unaided school is a public duty within the expanded expression of the term, an employee of a non-teaching staff engaged by the school for the purpose of its administration or internal management is only an agency created by it. It is immaterial whether "A" or "B" is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and non-teaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of non-teaching staff is regulated by some statutory

provisions, its violation by the employer in contravention of law may be interfered with by the Court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty.

75.5. From the pleadings in the original writ petition, it is apparent that no element of any public law is agitated or otherwise made out. In other words, the action challenged has no public element and writ of mandamus cannot be issued as the action was essentially of a private character.

27. Placing reliance upon the decision of the Full Bench of the Allahabad High Court in the case of *Roychan Abraham v. State of U.P.*, 2019 SCC OnLine All 3935, the learned counsel for the respondent school submitted that individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition. In paragraph 38 of the judgment in the case of *Roychan Abraham*, supra, the Full Bench held thus:

"38. Even if it be assumed that an educational institution is imparting public duty, the act complained of must have direct nexus with the discharge of public duty. It is undisputedly a public law action which confers a right upon the aggrieved to invoke extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be

rectified through petition under Article 226. Wherever Courts have intervened in exercise of jurisdiction under Article 226, either the service conditions were regulated by statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element."

28. There is no quarrel over the proposition that individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226 of the Constitution of India and this Court is bound by the said ratio.

29. The CBSE was constituted by a Government Resolution No.115-R28 dated 1.7.1922. The Secretary to the Government of India is the Controlling Authority of the Board. The Board is empowered to make regulation for imposing penalties for misconduct of teachers which is subject to the approval of the Controlling Authority. Undoubtedly, the Central Government has control over the affairs of the CBSE.

30. During the course of arguments, the learned counsel appearing for the respondent school candidly submitted that the service conditions of the teachers of the subject school are governed by "Affiliation by-laws

of CBSE, 2018". The affiliation by-laws of CBSE, 2018 provides in Clause 5.3. of Chapter-5 (Staff) that the school should define the service rules of teaching and non-teaching staff on the lines of the service rules of the employees of appropriate Government. Clause 5.3.20 contemplates disciplinary proceeding, suspension and reinstatement. Clause 5.3.21 provides constitution of disciplinary committee. Clause 5.3.22 provides penalties, power of imposing penalties and procedure of imposing penalties.

31. In the case on hand, the respondent school authorities have failed to produce any comprehensive service rules either framed by the CBSE or by the School Management in respect of the procedure of imposing penalties. In view of the above, the petitioner being an Assistant Teacher of the school is remediless against the order of termination of the petitioner's service.

32. It is apposite to mention that the Central Government legislated the Right of Children to Free and Compulsory Education Act, 2009, inasmuch as right to education is now a fundamental right under Article 21A of the Constitution of India. Section 24(2) of the said Act provides that a teacher committing default in performance of duties specified in

sub-section 1 of Section 24, shall be liable for disciplinary action under the service rules applicable to him/her. It is also provided that before taking such disciplinary action, reasonable opportunity of being heard shall be afforded to such teacher. In the instant case, the school authority terminated the petitioner's service as an Assistant Teacher without taking any disciplinary action and without affording any reasonable opportunity to defend his case. This clearly establishes that the respondent school authorities have violated the statutory provision in issuing the impugned termination order. More so, it is a glaring example of breach of principles of natural justice.

33. In distinguishing the judgment of the Hon'ble Supreme Court in the case of *St. Maries Educational Society*, supra, it is to be noted that in the said case, the first respondent was serving as an office employee; the charge was levelled and disciplinary proceeding was concluded, whereas the petitioner herein was serving as Assistant Teacher and no disciplinary proceedings was conducted including framing of charges. Paragraph 11 of the judgment in *St. Maries Educational Society*, supra, distinguishes that when an element of public interest is created and institution is catering that element, the teacher, the arm of the institution, is also entitled to avail of remedy provided under Article 226 of the Constitution

of India. To arrive at the said conclusion, this Court is taking the aid of the decision of the Hon'ble Supreme Court in the case of *K.Krishnamacharyulu and others v. Sri VenkateswaraHikndu College of Engineering and another*, (1997) 3 SCC 571 and *Binny Limited and another v. V.Sadasivan and others*, (2005) 6 SCC 657.

34. In *K.Krishnamacharyulu*, supra, the Hon'ble Supreme Court held:

"4. It is not in dispute that executive instructions issued by the Government have given them the right to claim the pay scales so as to be on a par with the government employees. The question is when there are no statutory rules issued in that behalf, and the institution, at the relevant time, being not in receipt of any grants-in-aid; whether the writ petition under Article 226 of the Constitution is not maintainable? In view of the long line of decisions of this Court holding that when there is an interest created by the Government in an institution to impart education, which is a fundamental right of the citizens, the teachers who impart the education get an element of public interest in the performance of their duties. As a consequence, the element of public interest requires regulation of the conditions of service of those employees on a par with government employees. In consequence, are they also not entitled to the parity of the pay scales as per the executive instructions of the

Government? It is not also in dispute that all the persons who filed the writ petition along with the appellant had later withdrawn from the writ petition and thereafter the respondent-Management paid the salaries on a par with the government employees. Since the appellants are insisting upon enforcement of their right through the judicial pressure, they need and seek the protection of law. We are of the view that the State has obligation to provide facilities and opportunities to the people to avail of the right to education. The private institutions cater to the need of providing educational opportunities. The teacher duly appointed to a post in the private institution also is entitled to seek enforcement of the orders issued by the Government. The question is as to which forum one should approach. The High Court has held that the remedy is available under the Industrial Disputes Act. When an element of public interest is created and the institution is catering to that element, the teacher, being the arm of the institution, is also entitled to avail of the remedy provided under Article 226; the jurisdiction part is very wide. It would be a different position, if the remedy is a private law remedy. ..."

35. In *Binny Limited*, supra, the Hon'ble Supreme Court held:

"11. Judicial review is designed to prevent the cases of abuse of power and neglect of duty by public authorities. However, under our Constitution, Article 226 is couched in

such a way that a writ of mandamus could be issued even against a private authority. However, such private authority must be discharging a public function and the decision sought to be corrected or enforced must be in discharge of a public function. The role of the State expanded enormously and attempts have been made to create various agencies to perform the governmental functions. Several corporations and companies have also been formed by the Government to run industries and to carry on trading activities. These have come to be known as public sector undertakings. However, in the interpretation given to Article 12 of the Constitution, this Court took the view that many of these companies and corporations could come within the sweep of Article 12 of the Constitution. At the same time, there are private bodies also which may be discharging public functions. It is difficult to draw a line between public functions and private functions when they are being discharged by a purely private authority. A body is performing a "public function" when it seeks to achieve some collective benefit for the public or a section of the public and is accepted by the public or that section of the public as having authority to do so. Bodies therefore exercise public functions when they intervene or participate in social or economic affairs in the public interest. In a book on Judicial Review of Administrative Action (5th Edn.) by de Smith, Woolf & Jowell in Chapter 3, para 0.24, it is stated thus:

"A body is performing a 'public function' when it seeks to achieve some collective benefit for the public or a

section of the public and is accepted by the public or that section of the public as having authority to do so. Bodies therefore exercise public functions when they intervene or participate in social or economic affairs in the public interest. This may happen in a wide variety of ways. For instance, a body is performing a public function when it provides 'public goods' or other collective services, such as health care, education and personal social services, from funds raised by taxation. A body may perform public functions in the form of adjudicatory services (such as those of the criminal and civil courts and tribunal system). They also do so if they regulate commercial and professional activities to ensure compliance with proper standards. For all these purposes, a range of legal and administrative techniques may be deployed, including rule making, adjudication (and other forms of dispute resolution); inspection; and licensing.

Public functions need not be the exclusive domain of the State. Charities, self-regulatory organisations and other nominally private institutions (such as universities, the Stock Exchange, Lloyd's of London, churches) may in reality also perform some types of public function. As Sir John Donaldson, M.R. urged, it is important for the courts to 'recognise the realities of executive power' and not allow 'their vision to be clouded by the subtlety and sometimes complexity of the way in which it can be exerted'. Non-governmental bodies such as these are just as capable of abusing their powers as is Government."

36. It is pertinent to note that the petitioner's case herein is an exception, inasmuch as there is public element in imparting education by the respondent school authority and the petitioner being the arm of the respondent school is entitled to avail the remedy under Article 226 of the Constitution of India. In the facts and circumstances of the instant case, the petitioner has every right to invoke the writ jurisdiction to challenge the order of impugned termination.

37. Power of Judicial review under Article 226 of the Constitution of India can be exercised by the High Court even if the body against which an action is sought is not State or an authority or an instrumentality of the State but there must be a public element in the action complained of. As stated supra, there is public element in imparting education by the respondent school and the petitioner being the arm of the respondent school is entitled to avail the remedy under Article 226 of the Constitution of India.

38. The respondent school authorities have terminated the service of the petitioner without conducting any disciplinary proceedings and in violation of the statutory provision, namely Section 24(2) of the Right of

Children to Free and Compulsory Education Act, 2009. Thus, for all the reasons, the order of termination of the petitioner's service is clearly arbitrary, illegal and void as it was passed without holding any enquiry/disciplinary proceedings. Any order terminating the service of a teacher, that too without giving reasonable opportunity of hearing, is bad in law. As stated supra, the instant case is a glaring example of breach of principles of natural justice. Moreover, the petitioner has made out a case for interference. The prayer made in the writ petition merits consideration and, therefore, the writ petition is liable to be allowed.

39. In the result, the writ petition is allowed. The impugned termination letter dated 26.3.2023 issued by the Secretary, Suresh Chandra Ghosh English Academy is set aside. The respondent school authorities are directed to reinstate the petitioner into service within a period of eight weeks from the date of receipt of a copy of this order. No costs.

(M.V. Muralidaran, J.)