

08.05.2025.
14
Ct.No.7.
as

WPA 309 of 2022

Puspendu Naskar
Vs.
The State of West Bengal & Ors.

Mr. Mahim Sasmal,
Mr. Sukdeb Sarkar.
...for the Petitioner.

Mr. Pinaki Dhole,
Mr. Avishek Prasad.
...for the State.

Mr. Suman Dey.
...for the Respondent Nos.5 to 7.

1. Affidavit-in-opposition filed on behalf of the respondent Nos.5, 6 and 7 and reply thereto, filed on behalf of the petitioner be kept on record.

2. By filing the present writ petition, the petitioner, a non-teaching staff member of Mozilpur Shyamsundar Balika Vidyalaya (High) (hereinafter referred to as "the school"), seeks issuance of a writ of mandamus directing the concerned respondents to permit him to rejoin his duties, as although he was implicated in a criminal case, he has been enlarged on bail by an order dated 30th October, 2021.

3. Before addressing the issue involves in this writ petition, it would be prudent to outline the key facts that had led to filing of the present writ petition.

4. One Sandip Roy was engaged as a Data Entry Operator in the school. Subsequently, due to certain

incidents involving non-disbursement of funds under various government schemes—such as Kanyashree, Bangla Shiksha Portal, Shikshashree, etc.—public uproar erupted in the locality. There was significant commotion among the guardians of the students, who alleged that the benefits under these schemes were not being extended to the rightful beneficiaries, namely the students of the school.

5. During the course of a preliminary investigation, the involvement of Mr. Sandip Roy was uncovered. It was found that Mr. Roy, while uploading data to the portal, had been entering bank account numbers of various unrelated individuals in order to siphon off funds. Following this discovery, the school authorities lodged a formal complaint with the jurisdictional police. Based on the complaint, an FIR was registered, and Joynagar Police Station Case No. 461 of 2021 dated 23.07.2021 was initiated under Sections 406/409/420/468, and 120B of the Indian Penal Code, initially citing Mr. Roy as the accused. During the investigation, the investigating authorities found prima facie evidence suggesting the involvement of the present petitioner in the alleged misappropriation. Consequently, the petitioner was arrested in connection with the said case on 03.08.2021 and was later granted bail on 30.10.2021.

6. Subsequently, the school authority adopted a resolution and submitted a recommendation to the competent authority for initiation of disciplinary

proceedings against the petitioner, along with forwarding all relevant documents. In contemplation of such proceedings, the petitioner was placed under suspension. Thereafter, the petitioner submitted a representation before the competent authority, requesting permission to rejoin his duties. However, as his representation did not receive a favourable response, the petitioner has been constrained to file the present writ petition.

7. Mr. Prasad, learned advocate appearing for the State, draws my attention to Clause 6(3) of the Notification dated 8th March, 2020, and submits that the competent authority may be directed to take an appropriate decision as to whether the petitioner can be permitted to resume his duties.

8. Mr. Dey, learned advocate appearing on behalf of the school authority, refers to certain paragraphs of the affidavit-in-opposition filed by the school and submits that the allegations levelled against the petitioner pertain to matters directly related to his service. He contends that if the petitioner is allowed to rejoin, he may gain access to official documents which could potentially be used as evidence against him in the pending proceedings. In such circumstances, he argues that the petitioner should not be permitted to resume his duties. He further submits that the petitioner is receiving subsistence allowance in accordance with law.

9. Heard the learned Advocates appearing for the parties.

10. Admittedly, the nature of the allegation is of a serious and grave nature. It is alleged that the petitioner, in connivance with the Data Entry Operator, misappropriated funds released by the State under various schemes such as Kanyashree, Bangla Shiksha Portal, Shikshashree, etc. As a result of the alleged actions of the petitioner and Mr. Roy, the actual beneficiaries were deprived of receiving the benefits intended under these schemes.

11. It is also an accepted position that the purpose of placing an employee under suspension is to ensure that the delinquent employee cannot access documents that may be used against him during the course of the enquiry and to prevent any opportunity to tamper with the evidence. However, as per Clause 6(3) of the Notification dated 8th March, 2018, a provision has been made allowing suspended teaching and non-teaching staff of a school to resume their duties, subject to certain conditions. Specifically, the resumption of duties should not disrupt the normal functioning of the institution. Therefore, the legislature has granted discretion to the competent authority to decide whether the petitioner's rejoining would hinder the smooth running of the institution.

12. Therefore, taking into account the provisions of the relevant law, the facts and circumstances of the case, and after giving careful consideration to the rival submissions of the parties, the writ petition is disposed of with the liberty granted to the petitioner to submit a

fresh representation before the President, West Bengal Board of Secondary Education. If such a representation is submitted, it shall be considered in accordance with the law, after providing the petitioner an opportunity to be heard.

13. If the President finds merit in the petitioner's claim, the necessary follow-up steps shall be taken. However, if the President concludes that the petitioner's claim lacks merit, a reasoned order shall be passed, and the same shall be communicated to the petitioner.

14. The entire exercise shall be completed within a period of 8 weeks from date of receipt of such representation from the petitioner.

15. With the aforesaid observation, the writ petition is disposed of.

16. There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)