

14.05.2025.
27
Ct.No.7.
as

WPA 10432 of 2023

Bishnu Mahato
Vs.
The State of West Bengal & Ors.

Mr. Subhrangsu Panda,
Ms. H. Roy,
Mr. Ratul Ghosal.

...for the Petitioner.

Mr. Bhaskar Prasad Vaisya, Ld. A.G.P.,
Mrs. Sayantanee Bhattacharya.

...for the State.

Mr. Supriyo Chattopadhyay,
Ms. Iti Dutta.

...for the DPSC, Dakshin Dinajpur.

1. The present writ petition has been filed seeking a direction upon the concerned respondents to rescind and/or revoke the suspension order vide Memo. No.1616 dated 22nd February, 2023, issued by the Sub-Inspector of Schools, Kushmandi Circle, Dakshin Dinajpur, against the petitioner. Additionally, the petitioner prays for a direction upon the concerned respondents to allow him to resume his duties as teacher-in-charge at Salkhir F.P. School, Post Office-Sihol, under Kushmandi Circle, District Dakshin Dinajpur, forthwith.

2. Briefly stated, the key facts leading to the filing of the present writ petition are that following the implication of the petitioner in a criminal case, BDN (E) PS Case No. 04 of 2023 dated 14.01.2023, under Sections 490/420/468/471 and 120B of the Indian Penal Code, the petitioner remained in judicial custody for more than 48 hours. Subsequently, the petitioner was released on bail on 11th March, 2023.

Following this incident, the petitioner was placed under suspension in contemplation of a disciplinary proceeding, through an order issued under Memo No. 1616 dated 22nd February, 2023.

3. Mr. Panda, learned Advocate representing the petitioner, submits that there is no connection between the incident and the petitioner's functioning as a teacher at the school. He further submits that no disciplinary proceeding has been initiated against the petitioner. Referring to a decision reported in **2004(4) CHN (Cal) 60 (Md. Abdul Mannan vs. State of West Bengal & Ors.)** and another judgment passed by a Co-ordinate Bench in **WPA 8304 of 2022 (Swarup Chandra Bisui vs. State of West Bengal & Ors.)**, he contends that the order of suspension cannot be for an indefinite period. He also submits that there is no certainty regarding when the criminal case will be disposed of. Accordingly, he prays that an appropriate direction be issued to revoke the suspension order and allow the petitioner to rejoin his duties.

4. Ms. Datta, learned Advocate representing the District Primary School Council, submits that the petitioner has already submitted a representation to the Chairman of the Council. She further submits that a direction may be issued to the Chairman to take a decision on the representation.

5. Ms. Datta submits that if the petitioner is allowed to rejoin Salkhir F. P. School, Post Office-Sihol under Kushmandi Circle, District-Dakshin Dinajpur, it may generate public uproar. She submits that, to avoid any

untoward incidents, the petitioner may be allowed to resume his duties at another school.

6. In reply, Mr. Panda submits that if the petitioner is allowed to rejoin his duties at any other school within the same circle, he has no objection.

7. Heard the learned Advocates appearing for the respective parties and perused the materials on record.

8. Undeniably, based on the complaint lodged against the petitioner, a criminal case, BDN (E) PS. Case No. 04 of 2023, was registered on 14.01.2023. Following the petitioner's implication in that case, the petitioner was arrested and subsequently released on bail on 11th March, 2023. The petitioner was placed under suspension by an order dated 22.02.2023. Admittedly, no disciplinary proceeding has been initiated as of yet. The purpose of issuing an order of suspension is to keep a delinquent employee away from the place of work to ensure that documents or evidence that may have been used against the petitioner cannot be tampered with and that the employee does not have access to those documents. As noted earlier, in this case, no disciplinary proceeding has been initiated. It is a well-settled proposition of law that an employee cannot be kept under suspension for an indefinite period. A useful reference in support of this proposition can be made to the decision reported in AIR 1987 SC Pg. 2257 (O.P. Gupta Vs. Union of India & Ors.). It is axiomatic that keeping an employee under suspension without initiating any disciplinary proceeding is prima facie tantamount to the imposition of a penalty.

9. Therefore, applying this proposition of law and following the ratio laid down in the judgments cited above, the writ petition is disposed of by directing the Chairman, District Primary School Council, to take a decision on the petitioner's representation dated 28.03.2023, in light of the observations made in this order and in accordance with the proposition laid down in the judgments cited in the preceding paragraphs, after affording an opportunity of hearing to the petitioner.

10. If the Chairman finds merit in the petitioner's contention, he shall take the necessary follow-up action, which may include allowing the petitioner to resume his duties and releasing all consequential benefits. If the Chairman finds that the petitioner's contention lacks merit, a reasoned order shall be passed, and the same shall be communicated to the petitioner.

11. The entire exercise shall be completed within a period of six weeks from the date of communication of this order.

12. With this observation, the writ petition is disposed of.

13. There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)