

13.11.2025
Sl. No.3
Ct. No.14
gd

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA/19355/2025
RANA CHATTAPADHYAY
VS
THE STATE OF WEST BENGAL AND ORS.

Ms. Sucharita Biswas
Ms. Debapriya Gupta
Mr. Umesh Kumar Shaw

...for the Petitioner.

Mr. Pinaki Bhayttacharyya

...for the State.

Mr. Biswabrata Basu Mallick
Mr. Biman Halder
Mr. Amman Arif Ansari

...for DPSC, Hooghly.

1. By the present writ petition the petitioner seeks for setting aside of the Suspension Order being Memo No.853/1(6)/DPSC, Hooghly dated 26th June, 2025 issued by the Hooghly District Primary School Council.
2. The petitioner contends that he joined in the post of Assistant Teacher in Tapasili Jati Primary School, West Bengal, Post – Tribeni, on 24th January, 2011. The petitioner discharged his function as Assistant Teacher satisfactorily without any blemish. The petitioner all on a sudden on 26th June, 2025 has been placed under suspension. Being aggrieved by such action of the respondent authorities, namely, the District Primary

School Council, the petitioner has preferred the present writ petition.

3. Ms. Sucharita Biswas, learned advocate appearing for the petitioner submits that the petitioner has been placed under suspension without any rhyme or reason. The facts stated in the order under suspension are all cooked up stories only to harass the petitioner. She further indicates that as per Section 3 of the West Bengal Payment of Subsistence Allowance Act, 1969, the petitioner is entitled to subsistence allowance equal to fifty *per centum* of the wages which the employee was drawing immediately before such suspension. No such subsistence allowance was granted to the petitioner. In the present case, 90 days have already elapsed since the order of suspension, hence the petitioner is entitled to seventy five *per centum* of the wages which he was drawing immediately prior to suspension. The petitioner precisely challenges the order of suspension on the following grounds that (i) no disciplinary proceeding has been contemplated, (ii) no allowances have been allowed. She prays for setting aside the suspension order.
4. Mr. Biswabrata Basu Mallick, learned advocate appearing for the DPSC, Hooghly submits that the petitioner was found to be in intoxicated condition in the school premises and despite warning he has paid no heed to mend his ways, which has led to issuance of the suspension order. As regards the subsistence

allowance, he submits that already documents have been called for from the petitioner for grant of subsistence allowance. He seeks for dismissal of the writ petition.

5. The principal allegation against the petitioner is that he attended the school in intoxicated condition which has led to passing of the suspension order. The order of suspension has been passed in terms of West Bengal Primary Education (Conduct of Service of Teachers of Primary Schools) Rules, 2001 (*hereinafter referred to as 'Rules, 2001'*).
6. For the sake of convenience of discussion, Rule 7 of Rules, 2001 is reproduced hereunder:

“7. Suspension.—(1) *A Primary School Council may place a teacher under suspension –*

- (a) *Where an inquiry under sub-rule(1) of rule 9 of these rules against him is contemplated by the Primary School Council or such an inquiry is pending; or*
- (b) *Where a case of any criminal offense involving moral turpitude against the teacher is under investigation or trial.*

(2) *Where a teacher is detained in custody for a period of exceeding 48 hours on a criminal charge or otherwise, he shall be deemed to have been suspended by an order of the appointing authority with effect from the date of his detention and shall remain under suspension until further orders. A teacher who is undergoing a sentence of imprisonment shall also be dealt with in the same manner, pending a decision as to the disciplinary action to be taken against the teacher.*

(3) *Every order of suspension under sub-rule (1) shall be communicated to the Director of School Education, Government of West Bengal, and the Board.*

(4) *A teacher under suspension or deemed to have been suspended shall be entitled to the following payments: –*

- (a) *During the first three months of suspension, a monthly subsistence pay which he would have drawn if he had been on half-pay leave.*

Provided that where the period of suspension exceeds three months, the appointing authority shall be competent to increase the amount of subsistence allowance for the remaining period of suspension by such amount, not exceeding fifty percent of the subsistence allowance admissible during the first three months of suspension, if, in the opinion of the appointing authority, the period of suspension has been prolonged for reasons to be recorded in writing.

(b) Dearness, medical and other allowances, admissible from time to time on the basis of the subsistence allowance fixed by the competent authority.

(5) No payment under sub-rule (4) shall be made unless the teacher furnishes a certificate to the effect that he is not engaged in any other employment, business, profession or vocation."

7. It has been strenuously argued on behalf of the petitioner that there is no whisper in the suspension order that disciplinary proceeding is contemplated, hence the order of suspension is bad in law. Upon going through the suspension order under challenge, it is found that further action will be taken in the course of time as per existing Rules. For such reasons, the argument as pressed into service on behalf of the petitioner does not stand to reason.
8. Challenge has also been thrown to the impugned suspension order on the ground of non-disbursement of the subsistence allowance. As per Rule 7 of the Rules, 2001, the petitioner is entitled to subsistence allowance. It is not in dispute that from the date of suspension, the petitioner is not receiving any subsistence allowance. Needless to mention that there is no provision in Rule 7 to the effect that non-payment of subsistence allowance *per se* makes the suspension order bad.
9. It has been vociferously argued on behalf of the petitioner that The West Bengal Payment of Subsistence Allowance Act, 1969 will prevail over the Rules. The West Bengal Primary Education (Conduct of Service of Teachers of Primary Schools) Rules, 2001

has been passed in exercise of power conferred by sub-section (1) and in particular by sub-clause (iii) of Clause (aa) of sub-section (2) of Section 106, and clause (c) of sub-section (1) of Section 60, of the West Bengal Primary Education Act, 1973 (West Bengal Act XLIII of 1973). Therefore, such argument that West Bengal Payment of Subsistence Allowance Act, 1969 will prevail over the Rules does not hold good since such Rules have been passed in relation to West Bengal Primary Education Act, 1973.

10. The order indicates that the petitioner has been put under suspension until further order. Admittedly, no further order has been passed by the Hooghly District Primary School Council after 26th June, 2025. Undisputedly, from the date of suspension the petitioner is not receiving any subsistence allowance.
11. Accordingly, the respondent no.6, the Chairman in Charge, Hooghly District Primary School Council is directed to pass further order within a period of two weeks from the date of communication of this order on the contention as recorded in the suspension order. The respondent no.4, the Sub-Inspector of Schools, Circle Project Coordinator, Mogra South Circle is directed to disburse subsistence allowance in favour of the petitioner in terms of Rule 7 of the West Bengal Primary Education (Conduct of Service of Teachers of Primary School) Rules, 2001 forthwith preferably within a period of two weeks from the date of

communication of this order together with arrears, if any.

12. Learned advocate for the petitioner is directed to communicate this order to the respondent no.6, the Chairman in Charge, Hooghly District Primary School Council and respondent no.4, the Sub-Inspector of Schools, Circle Project Coordinator, Mogra South Circle, for necessary compliance.

13. With the above direction, the writ petition being **WPA 19355 of 2025** stands disposed of.

14. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

15. Interim order, if any, stands vacated.

16. All connected applications, if any, stand disposed of.

17. There shall be no order as to costs.

18. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

19. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)