

4th Nov., 2025
Item no.M/L 72
Court No. 18
Pradip, A.R.(Ct.)

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Case No. **WPA 23298 of 2025**

In the matter of :
Punchra Bhagaban Mahabir Digambar Jain Sarak High School & Anr.
.... Petitioners
VS.

The State of West Bengal & Ors.
....Respondents

For the Petitioners:
Mr. Anjan Bhattacharya
Ms. Anita Shaw
Ms. Seema Thakur
....Advocates

For the W.B.B.S.E:
Ms. Koyeli Bhattacharyya
Mr. Bibek Datta
....Advocates

For the Private Respondent:
Mr. Indranuj Dutta
Ms. Benazir Sk.
....Advocates

1. The order passed by the President, Ad-hoc Committee, West Bengal Board of Secondary Education on 21st August, 2025 revisiting the order of the Hon'ble Court dated 6th May, 2014 passed in ***WPCRC 120 (W) of 2014 (WP 17768 (W) of 2012)*** in the matter of ***Utsab Mukhar Sarkar Vs. Abhijit Upadhyay*** is impugned in the instant writ petition.
2. The writ petition has been filed by the School. Allegation is that the period of leave of the petitioner was regularized by the West Bengal Board of Secondary Education way back on 8th March, 2018 by clearly mentioning that the absence of the private respondent from

21st October, 2011 to 1st June, 2014 shall be treated as leave without pay as per Leave Rules.

3. The teacher, being the private respondent herein, accepted the order of approval of leave without pay and did not challenge the same.
4. In 2025 a representation was filed by the teacher in response to which the Board revisited the entire issue and rescinded the order which was passed on 8th March, 2018 by ordering that the said period should be treated as leave with pay, spent on duty.
5. It appears that the Court vide order dated 13th December, 2012 in ***WP 17768 (W) of 2012*** in the matter of ***Utsab Mukhar Sarkar Vs. The State of West Bengal & Ors.*** was pleased to direct that the teacher shall go to the School on or before 21st December, 2012 and submit his fitness certificate issued by a registered medical practitioner. The School shall allow the teacher to join subject to regularization of leave by the appropriate authority.
6. As the teacher was not allowed to join the School despite production of a medical fitness certificate, an application for contempt was filed by the teacher. The said contempt application was taken up for consideration by the Court on 6th May, 2014. The Court directed the School to permit the teacher to join on or before 3rd June, 2014 without insisting for further production of fitness certificate as the medical certificate relied upon by the teacher was already appended to the application for contempt.
7. The contempt application stood disposed of without granting any further leave either to the School or to the Board to revisit the issue of regularization of the leave for the period when the teacher did not serve the School.

8. Learned counsel representing the Board, in support of the impugned order, submits that though there is no leave or direction passed by the Court permitting revisiting the issue, the same was reopened on the representation filed by the teacher.
9. The aforesaid submission of the Board cannot be accepted at all.
10. Once an issue has been finally decided by the Court and the Board in compliance thereof considered the prayer for regularization of leave of the teacher and passed order way back in the year 2018 by holding that the period of absence shall be treated as leave without pay, the Board ought not to have reopened the same.
11. In the absence of any order from the Court the Board ought not to have sat over the issue which stood closed by the Court. Had there been any reason for revisiting the issue, the Court certainly would have passed necessary direction for the same. The fact that no leave was granted by the Court implies that the Court was satisfied with the conduct of the school and, accordingly, did not pass any further direction in the matter.
12. For upholding the sanctity of the order passed by the Court upon hearing submission made on behalf of all the parties and upon appreciation of facts, the Board ought not to have deliberated over the issue afresh. The Board clearly exceeded its jurisdiction and misdirected itself by revisiting and reopening the entire issue. The same is contrary to law and contrary to the order passed by the Hon'ble Court.
13. If the action of the Board is taken to be sacrosanct and a litigant is permitted to reopen or revisit an issue finally adjudicated by the Court, then there can never be finality to a litigation. The parties may

always reel under apprehension that the authority may any time in future rake up a settled issue. For upholding the dignity and majesty of the order passed by the Court the parties ought to obey and abide by the same and not put forth explanation in support of such act.

14. In view of the above, the impugned order dated 21st August, 2025 cannot be treated to be a valid one. The issue in question was already decided by the Board on 8th March, 2018. The parties have acted in accordance with the same.
15. Accordingly, the impugned order dated 21st August, 2025 stands set aside. The writ petition stands allowed.
16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)