

17.03.2025
Court No. 18
Item Nos. 13 & 14
(**Suvendu**)

WPA 26974 of 2024

Snehasis Bhattacharya & Anr.
-Versus-

The State of West Bengal & Ors.

With

WPA 26972 of 2024

Papiya Mondal
-Versus-

The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
Ms. Anita Shaw
.....for the petitioners

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
.....for the State
(WPA 26974 of 2024)

Mr. K.J. Yusuf
Ms. Munmun Ganguly
.....for the State
(WPA 26972 of 2024)

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
Ms. Keya Panja
...for the WBBSE

Mr. Sharnaya Chatterjee
Ms. Riya Kundu
....for the respondent no. 6

By filing two writ petitions, challenge has
been thrown to order dated 30th September,
2024 issued by the President, Ad-hoc

Committee, West Bengal Board of Secondary Education (hereinafter referred to as “Board”) whereby Academic Council of Raniganj High School, Paschim Bardhaman (hereinafter referred to as “said school”) is advised to furnish the President, Ad-hoc Committee of the Board an investigation report in the form of a resolution adopted in an extraordinary meeting chaired by senior most teacher in absence of the Headmaster of said school and other staff of said school who are involved in an alleged incident of physical assault upon the Headmaster of said school leading to initiation of criminal proceeding being Raniganj Police Station Case No. 205 of 2024 dated 22nd June, 2024. By the said order dated 30th September, 2024 District Inspector of Schools (SE), Paschim Bardhaman was also advised to lodge FIR with the local Police Station with sufficient relevant and irrefutable documents and evidences.

Learned advocate representing the petitioners in both the writ petitions has submitted upon placing reliance on Clause 5(1) of the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct

and discipline of Teachers and Non-Teaching Staff) Rules, 2018 (hereinafter referred to as “said Rules of 2018”) that Academic Council is not the authority to submit report based on which disciplinary proceeding can be initiated against teaching/non-teaching staff of a Government aided recognized school.

It is specifically submitted that under Rule 5(1) of the said Rules of 2018 the Committee or the Administrator or Head of an Institution can lodge complaints before the concerned authority against misconduct of teaching and non-teaching staff based on which Board can initiate proceeding in accordance with the provisions as contained in the said Rules of 2018.

According to the petitioners, by impugned order dated 30th September, 2024 President has wrongly directed Academic Council of said school to furnish an investigation report which cannot be the basis of initiation of disciplinary proceeding since that would be contrary to the provisions as contained in the said Rules of 2018. It is further contended on behalf of the petitioners that in absence of any complaint/report from the Committee or the Administrator

or the Head of an Institution the Board ought not to have initiated any proceeding against the petitioners.

Learned advocate representing the Board has filed reports in the form of affidavits in both the writ petitions and same are taken on records.

In the report investigation report of the Academic Council of said school dated 8th November, 2024 is enclosed from where it transpires that there are several allegations against the petitioners who are approved staff of said school.

However, on behalf of the Board it is submitted that in addition to obtaining report from the Academic Council of said school, Board has asked for formal report from the District Inspector of Schools (SE), Paschim Bardhaman based on preliminary investigation and the District Inspector of Schools has furnished such report on 11th March, 2025. It is also submitted that till date no formal proceeding has been initiated against the petitioners by issuing charge-sheet.

In addition thereto, in order to refute the contention made on behalf of the petitioners, reliance has been placed on Rule 5(12) of the said Rules of 2018 wherein it has been provided that Board may *suo moto* initiate disciplinary proceeding against a teaching or non-teaching staff if there is reason to believe that any misconduct has been committed by a teaching or non-teaching staff. Therefore, it is submitted by learned advocate representing the Board that irrespective of submission of report by the District Inspector of Schools on preliminary investigation Board is empowered to initiate disciplinary proceeding against the petitioners in an appropriate case.

Taking note of the submissions made on behalf of the parties and since it is found by this Court that no formal proceeding has been initiated against the petitioners by issuing charge-sheet based on report furnished by the concerned District Inspector of Schools or the Academic Council, this Court is required to examine the impugned order dated 30th September, 2024 issued by the President, Ad-hoc Committee of the Board.

Bone of contention of the petitioners is giving direction upon the Academic Council of said school to submit a report before the Board is impermissible under Rule 5(1) of the said Rules of 2018.

However, on perusal of impugned order dated 30th September, 2024, this Court has come across a situation that the President had to take into consideration the fact that there was allegation of physical assault upon the Headmaster of said school causing injury to the extent of fracture in finger as a result whereof a criminal proceeding was initiated being Raniganj Police Station Case No. 205 of 2024 dated 22nd June, 2024.

If Court accepts contention of the petitioners that it is the Secretary or the Head of the Institution or the Committee to submit report in that event there could have been possibility of submission of report which could be termed as “bias” since allegation is physical assault inflicted upon Headmaster resulting in serious injury. Rule 5(1) of the said Rules of 2018 prescribes submission of report by the Committee or the Administrator or Head of

Institution prior to initiation of proceeding by the Board in a fit case. Admittedly, there is no Administrator in the said school. Since allegation is inflicting physical injury upon the Headmaster it is not a case where Headmaster should be directed to submit a report. Therefore, Managing Committee of said school could have been directed to submit a report but Headmaster is the ex-officio Secretary of the Managing Committee of said school and in the event of submission of report by the Managing Committee there would also have been possibility to term the said report as “biased”.

President in his turn while taking note of the entire gamut of the issue directed Academic Council to submit the report

Question arises in the event report is furnished by the Academic Council of said school how petitioners are prejudiced. No case is made out in the writ petitions from where it can be inferred that in the event report is furnished by the Academic Council in terms of the order of the President, Ad-hoc Committee of the Board dated 30th September, 2024 in a situation where Headmaster of said school is not

in a position to submit report, this Court finds that submission of such report by the Academic Council of said School is not prejudicial to the interest of the petitioners specially when involved teachers did not participate in the meeting of the Academic Council.

The President, Ad-hoc Committee of the Board has also specifically directed in the order dated 30th September, 2024 that extraordinary meeting would be chaired by the senior most teacher in absence of the Headmaster of said school and other involved staff of said school. No case is made out that in the meeting of the Academic Council any of the involved teachers including Headmaster participated.

Therefore, this Court does not find that if the report is asked for from the Academic Council of said school the petitioners are prejudiced.

In addition thereto, report has also been called for from the concerned District Inspector of Schools based on preliminary investigation and today it is submitted on behalf of the Board that such report has been furnished on 11th March, 2025.

At this stage, Court finds no occasion to interfere with the order passed by the President, Ad-hoc Committee of the Board dated 30th September, 2024 and the concerned authority of the Board shall be at liberty to take independent decision based on materials available before the Board whether disciplinary proceedings are to be initiated against the petitioners or not. In the event concerned authority of the Board decides to initiate proceedings against the petitioners same shall be initiated strictly in accordance with the said Rules of 2018 and on observing principles of natural justice.

However, the part of the order of the President, Ad-hoc Committee of the Board dated 30th September, 2024 whereby concerned District Inspector of Schools was advised to lodge FIR with the local Police Station with sufficient relevant and irrefutable documents and evidences stands set aside since such advise is given without giving opportunity of hearing to the petitioners.

Accordingly, both the writ petitions are partly allowed and disposed of.

There shall be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)