

02-04-2025

 sg

Ct. 8

Civil Appellate Jurisdiction

MAT 2195 of 2024

CAN 1 of 2024

Bijoy Das

Vs.

The State of West Bengal & Ors.

Mr. Anjan Bhattacharya

Ms. Anita Shaw

... for the appellant

Mrs. Koyeli Bhattacharyya

...for W.B.B.S.E.

Mr. Shranya Chatterjee

Mr. Saptak Naskar

...for the respondent no.6

1. By consent of the parties, the appeal and the application are taken up together and dispose of by this common order.
2. The appellant is aggrieved by an order dated 28th November, 2024 passed by the learned Single Judge dismissing the writ application in which the appellant had challenged the order of suspension dated 30th September, 2024 issued by the President, Ad-hoc Committee, West Bengal Board of Secondary Education whereby the President was refused to revoke the order of suspension passed against the writ petitioner on 8th July, 2024.
3. The petitioner is an Assistant Teacher of Raniganj High School (H.S.), Paschim Bardhaman (hereinafter referred to as 'said school'). The headmaster of the said school alleged that he was physically assaulted by the writ

petitioner within the school premises on 22nd June, 2024 and following which, a criminal complaint was lodged and he was taken into custody by the Raniganj Police Station being Raniganj Police Station Case No. 205 of 2024 dated 22nd June, 2024. The petitioner was enlarged on bail on 27th June, 2024. He should be permitted to resume his duty as Assistant Teacher in the said school upon revocation of the order of suspension dated 8th July, 2024 giving effect to from the date of arrest i.e. 22nd June, 2024.

4. Earlier, the writ petitioner filed a writ petition being WPA 21921 of 2024 which was disposed of by a learned Single Judge on 9th September, 2024 directing the President of the Board to take a decision with regard to the representation made by the writ petition dated 13th August, 2024 relating to revocation of suspension. The President thereafter, on consideration of the material on records, had passed an order dated 30th September, 2024 refusing to revoke the suspension order dated 8th July, 2024. This order was the subject matter of challenge in WPA 26976 of 2024.
5. Mr. Anjan Bhattacharya, learned Counsel appearing on behalf of the appellant has submitted that the petitioner is innocent and he has been falsely implicated. It is submitted that the Headmaster of the school, in connivance with the few members of the Academic Council, had created a false evidence to malign the petitioner and his wife and the President of the Board has

failed to take into consideration such materials in considering the representation of the petitioner for revocation of suspension. Mr. Bhattacharya has relied upon the decision of the coordinate Bench in *AST No. 2593 of 2008 (Birbhum District Primary School Council & Anr. vs. Md. Mokhtar Hossain & Ors.)* passed on 3rd December, 2008 and a decision of the Hon'ble Supreme Court in *Union of India vs. Rajiv Kumar* reported in *AIR 2003 Supreme Court 2917* (particularly paragraphs 27, 29, 30 and 31) in support of his submission that the petitioner cannot be kept in suspension for a prolonged period.

6. The alleged incident took place on 22nd June, 2024 and till date, no charge sheet has been filed. Moreover, the entire exercise is mala fide and the President of the Board should have nipped the proceeding in the bud. In refuting the submission made on behalf of the petitioner, the learned Counsel for the Board has submitted that the President in its order dated 30th September, 2024 had taken into consideration various factors including four vide clippings produced and directed the Academic Council of school to share the investigation report in the form of resolution and the President, on consideration of such report, had directed issuance of show cause notice and initiation of a disciplinary proceeding against the petitioner.
7. However, we could not find from record that any such decision was communicated to the petitioner. The

petitioner has serious preservation against the composition of the Academic Council as it has been alleged that once a criminal complaint has been lodged against one member of the Academic Council and if that person is kept for the decision making process, certainly it would taint the decision of the Academic Council.

8. On such consideration, we direct the President to give an opportunity of hearing to the petitioner before taking a decision for initiation of disciplinary proceeding. However, it is needless to mention that there is no requirement of a full-fledged hearing at the stage when a decision is required to be taken before a disciplinary proceeding is initiated.
9. The President is required to, prima facie, form an opinion that the matter calls for issuance of charge sheet. The President is directed to take a decision afresh within a period of four weeks from the date of communication of this order.
10. We suspend the order of suspension for a period of eight weeks from date or till the President takes a decision in this regard, whichever is earlier and communicate its decision to the petitioner. In the event, the President is of the opinion that a charge sheet is required to be issued, appropriate steps should be taken in this regard and the disciplinary proceeding should be concluded as expeditiously as possible and preferably within a period of six months from the date of commencement of the disciplinary proceeding.

11. The charge sheet and the show cause notice, for the time being, is set aside only on the ground that we feel that the prima facie view of the President has not been disclosed in this proceeding and we are not aware whether the President is at all considered the said report before directing the issuance of show cause notice and charge sheet.
12. We make it clear that we have not gone into the merits of the matter.
13. With the aforesaid direction, the appeal and the connected application are disposed of.
14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Smita Das De, J.)