

23.03.2026
Sl. No.37
Ct. No.14
gd

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

**WPA 1655 of 2025
Sunil Kumar Mandi
versus
State of West Bengal & Ors.**

Mr. Amal Krishna Samanta,
Mr. Arun Kumar Das
...for the Petitioner.

Mr. Santanu Kumar Mitra, Sr. Govt. Adv.
Mr. Subhabrata Das
...for the State.

Mr. Ranjan Saha
...for the DPSC, Paschim Medinipur.

1. By the present writ petition the petitioner seeks for setting aside and/or quashing of the order of suspension dated 19th September, 2023 issued by the Chairman-in-Charge, District Primary School Council, Paschim Medinipur suspending the petitioner with effect from 1st August, 2023 as per Rule 7(2) of West Bengal Primary Education (Conduct of Service of Teachers of Primary School) Rules, 2001.
2. The petitioner contends that he joined as an Assistant Teacher of Washil Chak Primary School at Lakshmanchak under Khedgree Circle, Purba Medinipur on 2nd November, 2012. The petitioner was confirmed in the said post with effect from 2nd November, 2014. Subsequent thereto, the petitioner was transferred to Ambigeria Primary School, Paschim

Medinipur on 6th October, 2020. On 31st July 2023 a criminal complaint was lodged against the petitioner which was registered as Kharagpur Local Police Station Case No.621 of 2023 dated 31st July 2023 (G.R. Case No.2301 of 2023) under Sections 376(2)(f)(n)/417/506 of the Indian Penal Code (*in short IPC*). The petitioner was arrested on 4th August, 2023. The petitioner was put under suspension with effect from 1st August, 2023. The petitioner was enlarged on bail on 26th September, 2023. Upon completion of investigation charge-sheet was submitted on 4th September, 2023 under Sections 376(2)(f)(n)/417/506 of IPC. The aforesaid criminal case has been committed to the Court of Additional District and Sessions Judge, Fast Track, 2nd Court, Paschim Medinipur for trial and disposal. The said criminal case is still pending. There are no such disciplinary proceedings initiated against the petitioner after his suspension. On 11th December, 2023 the petitioner made a representation before the Chairman, District Primary School Council, Paschim Medinipur for withdrawal and/or revocation of the impugned order of suspension followed by a representation on 18th December, 2024. However, no decision has yet been taken by the authority concerned on the representation of the petitioner. Being aggrieved by the action of the respondent authorities, the petitioner has preferred the present writ petition.

3. Mr. Amal Krishna Samanta, learned advocate for the petitioner submits that it is settled proposition of law that suspension cannot be continued for an indefinite period. There are no such disciplinary proceedings initiated against the petitioner upon such suspension. Pendency of a criminal case cannot be an embargo for reinstatement of the petitioner in his service upon withdrawal of the order of suspension. To buttress his contention, he relies on the following decisions:

- a) ***State of Orissa through its Principal Secretary, Home Department versus Bimal Kumar Mohanty*** reported in **(1994) 4 SCC 126** of the Hon'ble Supreme Court;
- b) ***Ajay Kumar Choudhary versus Union of India through its Secretary and Another*** reported in **(2015) 7 SCC 291** of the Hon'ble Supreme Court;
- c) ***Sandipta Gangopadhyay versus Allahabad Bank & Ors.*** reported in **2015 SCC Online Cal 5553** of the Coordinate Bench of this Court; and
- d) ***Swarup Chandra Bisui versus State of West Bengal & Ors. (Re: WPA 8304 of 2022)*** of the Coordinate Bench of this Court.

He seeks for appropriate orders for revocation and/or withdrawal of the order of suspension.

4. On the contrary, Mr. Ranjan Saha, learned advocate for District Primary School Council, Paschim Medinipur submits that the petitioner is the Teacher-in-charge of the school and allegation against the

petitioner is of commission of rape upon a midday meal worker of the said school, which is a serious offence. On the basis of *prima facie* material, the investigating officer has submitted charge-sheet against the petitioner. Moreover, in the cited decisions no criminal offence of rape is involved. Hence, the prayer for withdrawal should be dismissed in *limine*. In support of his contention, he relies on a decision of Coordinate Bench of this Court in ***Gopi Nath Saren versus State of West Bengal & Ors.* (Re: WPA 2068 of 2022)**.

5. Upon hearing the learned advocates for respective parties, the only issue which falls for consideration is whether the impugned suspension order is sustainable or not.
6. Admittedly, the petitioner was put under suspension upon initiation of a criminal case under Sections 376(2)(f)(n)/417/506 of IPC. On completion of investigation and on the basis of *prima facie* materials, charge-sheet has been submitted against the petitioner under the aforementioned offence. The said criminal case is pending before the learned trial court. Be that as it may, one cannot be oblivious to the fact that the petitioner being the Teacher-in-Charge of an educational institution is alleged to have been involved in the offence of rape upon a member of *Swasahayak* team, who works for cooking midday meal in the said school. An educational institution is an establishment

that provide education to the learners and are designed to impart knowledge, skills, values and cultural norms to individuals in a structured manner. The petitioner being the Teacher-in-charge has a moral and ethical duty to carry forward such purpose of educational institution. There cannot be any manner of doubt that the allegations of commission of rape is a grievous one and has a direct bearing on the moral turpitude of the petitioner and therefore should not viewed lightly. In the opinion of this court allowing the petitioner, allegedly involved in such offence, to resume his duties in the said school upon withdrawal of the suspension order would have a repulsive impact on the environment of the said school where education is offered and imparted to the children of tender age.

7. The decisions cited on behalf of the petitioner does not relate to commission of offence of rape by a delinquent and as such those are distinguishable from the case at hand.
8. In light of the above discussion, the writ petition falls short of merit.
9. Accordingly, the writ petition being **WPA 1655 of 2025** stands dismissed.
10. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
11. Interim order, if any, stands vacated.
12. All connected applications, if any, stand disposed of.
13. There shall be no order as to costs.

14. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
15. 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.)