05.10.2026
Sl. No.1032
Ct. No.14
gd

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19087 of 2026
Kabir Sekh
versus
The State of West Bengal and Ors.

Mr. Anindya Bose
Mr. Santanu Maji
Ms. Payel Shome
Ms. Debrani Mondal
Ms. Raina Das
Mr. Chandan Das
...for the Petitioner.

Ms. Koushikee Banerjee
Mr. Pratap Kumar Yadav
...for the State.

Mr. Tanweer J. Mandal
...for DPSC, Purba Bardhaman.

1. Affidavit of service filed by the petitioner is taken on record.

2. Statement of facts furnished by the Chairman, District Primary School Council, Purba Bardhaman dated 11th August, 2026 is taken on record. Copy served.

3. Report filed by the State furnished by District Inspector of Schools, Primary Education, Purba Bardhaman dated 11th August, 2026 is also taken on record.

4. This is second round of litigation.

5. By the present writ petition the petitioner seeks for setting aside and/or cancellation of the order issued by respondent no.4, Chairman, District Primary

School Council, Purba Bardhaman *(in short 'DPSC') vide* Memo No.1483/5 dated 2nd July, 2026.

6. The petitioner contends that he joined as an Assistant Teacher on 22nd February, 2021 at Babuishole F.P. School and was thereafter transferred to Argon F.P. School in the year 2024. On 7th April, 2024, a criminal case being Burwan P.S. Case No.171 of 2024 dated 7th April, 2024 was initiated against the petitioner under Sections 498A/325/307/326/313 of the Indian Penal Code *(in short 'IPC')* and Sections 3/4 of the Dowry Prohibition Act corresponding to G.R. Case No.834 of 2024 at the instance of his wife. The petitioner was arrested on 18th October, 2024 and was released on bail on 29th October, 2024. The petitioner after being released on bail reported to Argon F.P. School to resume his duties. However, he was not allowed to join his duties. On 7th April, 2025 the petitioner was put under suspension by the Chairman, District Primary School Council, Purba Bardhaman, respondent no.4. On 21st May, 2025, the petitioner made a representation praying for withdrawal of such suspension order. However, since no steps were taken, petitioner filed a writ petition being WPA 15305 of 2025 which was disposed of on 6th March, 2026 with the following direction:

> *"In view of such submissions, the respondent No.4, Chairman, District Primary School Council, Purba Bardhaman is directed to consider the representation of the petitioner dated 21st May, 2025 in accordance with law upon notice to the petitioner by passing a reasoned order within a period of six weeks from the date of communication of this order."*

7. Pursuant to such direction order has been passed by the Chairman-in-Charge, District Primary School Council, Purba Bardhaman on 2nd July, 2026 rejecting the prayer of the petitioner for withdrawal of order of suspension, which has been challenged in the present writ petition.

8. Mr. Anindya Bose, learned advocate appearing for the petitioner submits that the prayer of the petitioner for withdrawal of the suspension has been turned down by the authority concerned citing Clause (a) of Rule 13 of the West Bengal Primary Education (Conduct of Service of Teachers of Primary Schools) Rules, 2001 *(hereinafter referred to as 'the Rules of 2001').* However, such rule is not applicable inasmuch as it deals with pay and allowances on reinstatement, when the suspension of a teacher is held to have been unjustifiable or not wholly justifiable. There is no plausible reason cited in the order to reject the prayer of the petitioner for withdrawal of suspension. Moreover, since the date of his suspension, no disciplinary proceeding has been initiated against the petitioner. He informs that the petitioner is also not receiving subsistence allowance. Reliance placed on the decision of Hon'ble Division Bench passed in (i) ***Birbhum District Primary School Council & Anr. versus Md. Mokhtar Hossain & Ors.*** reported in ***(2009) 1 CHN 476;*** and (ii) ***Timir Baran Santra versus State of West Bengal and Ors***. ***(Re: MAT 1043 of 2023)***. In light of his aforesaid submissions

he seeks for setting aside of the impugned order passed by the Council and also for directing the authority concerned for reconsideration of the prayer of the petitioner for withdrawal of suspension.

9. Mr. Tanweer J. Mandal, learned advocate representing District Primary School Council, Purba Bardhaman submits that Rule 13 of Rules of 2001 is a part of the procedure pertaining to suspension of teachers.

10. Learned advocate for the State submits in the similar manner.

11. Upon hearing the learned advocates for respective parties, the only issue which falls for consideration is whether the impugned order dated 2nd July, 2026 passed by Chairman-in-Charge, District Primary School Council, Purba Bardhaman rejecting the prayer of the petitioner for withdrawal of suspension is sustainable or not.

12. On perusal of the impugned order under challenge it is found that the same has passed citing Clause (a) of Rule 13 of the Rules of 2001 and the application for withdrawal of suspension has been rejected since the status of acquittal has not yet been decided in the criminal case initiated against the petitioner.

13. For examination of the aforesaid finding of the impugned order, it would be apposite to reproduce Rule 13 of the Rules of 2001 as hereunder.

> ***"Rule 13. Pay and allowances on reinstatement.–*** *When the suspension of a teacher is held to have been unjustifiable or not wholly justifiable, or when a teacher who has been dismissed, removed or suspended is reinstated, the disciplinary or appellate authority may grant to him for the period of his absence from duty –*
>
> (a) *if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed, removed or suspended, and by an order to be separately recorded, any other allowance of which he was in receipt of prior to his dismissal, removal, or suspension, or,*
>
> *(b) if otherwise, such proportion of pay and allowance as the disciplinary, appellate authority may deem fit.*
>
> *In a case falling under clause (a), the period of absence from duty shall be treated as a period spent on duty. In a case falling under clause (b), the period may be treated as on duty or leave but it shall not be so treated unless the disciplinary or appellate authority directs accordingly.*
>
> *The period of absence shall where it is neither treated as on duty nor leave, be treated as a period spent on suspension."*

14. Upon bare perusal of the aforesaid Rule it is found that Rule 13 deals with pay and allowances on reinstatement. Meaning thereby that the Rule provides for extent of pay and allowances that will be admissible to the teacher whose suspension has been held to unjustifiable or not wholly justifiable or when a teacher who has been dismissed, removed or suspended is reinstated. It is relevant to note that the suspension has been made under Rule 7(2) of Rules of 2001 until further orders. The representation was for withdrawal of such suspension. Thus, the authority concerned was supposed to decide as to whether such suspension will continue in the given facts and circumstances or not. But the authority concerned without dealing with the circumstances under which it can or cannot grant withdrawal, has rejected the prayer citing Rule 13 of Rules 2001 which precisely deals

with pay and allowance to be paid on reinstatement. Hence it is found that the impugned order passed is bereft of sufficient reasons. This court finds substance in submission of Mr. Bose relying on *Md. Mokhtar Hossain & Ors. (supra)* and *Timir Baran Santra (supra)*.

15. In view of the above, as the reasons have not been cited in the impugned order, the order dated 2nd July, 2026 passed by respondent no.4, Chairman, District Primary School Council, Purba Bardhaman is hereby set aside.

16. Accordingly, respondent no.4, Chairman, District Primary School Council, Purba Bardhaman is directed to reconsider the representation of the petitioner and dispose of the same by passing a reasoned order in accordance with law upon notice to the petitioner within a period of eight weeks from the date of communication of this order.

17. As per the suspension order the petitioner is entitled to subsistence allowance. Be that as it may, it is informed by learned advocate for the petitioner that the petitioner is not receiving subsistence allowance since 2nd April, 2025.

18. In view of the above, respondent no.4, Chairman, District Primary School Council, Purba Bardhaman is directed to release the subsistence allowance in terms of the existing rules, if not already disbursed.

19. The reasoned order shall be communicated to the petitioner within one week from the date of passing of such reasoned order.

20. Learned advocate for the petitioner is directed to communicate this order to the respondent no.4, Chairman, District Primary School Council, Purba Bardhaman for necessary action.

21. With the above direction, the writ petition being **WPA 19087 of 2026** stands disposed of.

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

23. Interim order, if any, stands vacated.

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

25. There shall be no order as to costs.

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

27. 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.)