

(2009) 06 CAL CK 0046

Calcutta High Court

Case No: Writ Petition No. 1818 (W) of 2009

Smt. Supriti Majumdar

APPELLANT

Vs

State of West Bengal and others

RESPONDENT

Date of Decision: June 18, 2009

Acts Referred:

- Management of Recognized Non Government Institutions (Aided and Unaided) Rules, 1969 - Rule 28(9)(viia)

Citation: (2009) 123 FLR 402

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Arunava Maity, for the Appellant; Mani Sankar Chattopadhyay for the School Authority, Ms. Santi Das and Ms. Sanjukta Roy for the State, for the Respondent

Final Decision: Allowed

Judgement

Jayanta Kumar Biswas, J.

The petitioner in this writ petition dated January 21, 2009 is challenging the order of the Secretary, Parbelia Colliery Hindi High (H.S.) School, P.O.-Neturia, Purulia (W.B.) dated January 15, 2007, Annexure P7 at p. 40.

2. By the order the school authority suspended her with effect from January 16, 2007. It was stated that she was suspended "in the best interest of the school for negligence of duties, gross misconduct and unsatisfactory replies to the show cause notice served on" her. The order was issued according to the provisions of Rule 28(9) (viia) of the Management of Recognized Non Government Institutions (Aided and Unaided) Rules, 1969. The order was required to be approved by the West Bengal Board of Secondary Education that recognized the school. Counsel for the school authority submits that though all papers seeking the approval were sent to the board, the board did not give any decision.

3. Admittedly, within ninety days from the date of suspension the school authority did not initiate any disciplinary proceedings against the petitioner. As a result, by operation of law, also in Rule 28(9)(viiA), the suspension order was to stand automatically withdrawn on expiration of the period of ninety days from the date of suspension.

4. The above-noted legal position has been noticed by counsel for the school, who finds little to say. He says that his client may be permitted to suspend the petitioner again, if in future a similar situation under which she was suspended arises. I am unable to appreciate the stand of the school. There is no reason for the Court to grant the school an anticipatory permission to suspend the petitioner. Whether an occasion such as the one that led to the petitioner's suspension would at all arise in future is not known to anyone. When the law confers power on the managing committee to suspend a member of the teaching staff for good reasons, I am unable to see why the school authority should seek a protective shield from the Court. For exercising any power no leave of the Court is necessary. The question for decision in this case is whether the suspension order is still in force. I fully agree with counsel for the petitioner that the suspension order dated January 15, 2007 died a natural death on expiration of the period of ninety days from that date. As a result, the petitioner has become entitled to salaries and allowances. The respondents are under an obligation to permit her to discharge her duties.

5. For these reasons, I allow the writ petition. It is declared that the suspension order dated January 15, 2007 lost its force on expiration of ninety days from that date. The school authority is directed to permit the petitioner to join office at once. From the date the period of ninety days from January 15, 2007 expired till today and also from the date she joins office she shall be paid full salary and allowances according to law. For the period from tomorrow till the petitioner reports for duty leave according to the leave rules shall be granted.

6. Copy of this order duly countersigned by the Assistant Registrar (Court) shall be supplied to the parties on the usual undertakings.

7. Urgent certified xerox of this order, if applied for, shall be supplied to the parties within three days from the date of receipt of the file by the section concerned.