

WA 173/2007

BEFORE

HON'BLE MR. JUSTICE D.BISWAS, CHIEF JUSTICE (ACTING)

HON'BLE MR. JUSTICE B.P.KATAKEY

B.P.KATAKEY,J:

The unsuccessful writ petitioner has filed this appeal challenging the order dated 21.03.2007 passed by the learned Single Judge in W.P(C) No. 1798/2005.

We have heard Mr. R.Dubey, learned counsel for the appellant as well as Mr. M.K. Choudhury, learned Senior Counsel appearing for the Respondent Education Department.

The appellant writ petitioner had challenged the impugned order dated 27.12.2004 issued by the authority drawing up disciplinary proceeding against him on the charge contained in the said charge memo. At the time of admission of the said writ petition, though operation of the order of suspension was stayed vide order dated 07.03.2005, the authority was directed to proceed with the disciplinary proceeding. It appears from the impugned order dated 21.03.2007 that the learned Single Judge had directed the authorities to finalise the departmental proceeding initiated against the appellant as expeditiously as possible and, thereafter, fix the responsibility as per the finding arrived at in the said departmental proceeding. The learned Single Judge has also observed the respondents to lodge an FIR in respect of the forgery allegedly committed by the petitioner.

Admittedly, the departmental proceeding initiated against the appellant-writ petitioner vide charge sheet dated 27.03.2004 is yet to be finalized. According to the learned counsel for the appellant, the Inquiry Officer has submitted his report exonerating the appellant-writ petitioner from the charges leveled. Admittedly, no final decision have been taken by the Disciplinary Authority on such enquiry report till date. The appellant's order of suspension, pending finalization of the departmental proceeding, has been revoked. The grounds on which the appellant has challenged the departmental proceeding, can also be raised, in the event of taking any penal action against him in such proceeding. In view of the above, we are not inclined to interfere with the order passed by the learned Single Judge whereby the authorities have been directed to complete the proceeding as expeditiously as possible. We are also not inclined to interfere with the order relating lodging of FIR as observed by the learned Single Judge, since there are allegations against the appellant-writ petitioner.

The authority is, therefore, directed to finalize the departmental proceeding initiated against the appellant and to decide about the lodging of the FIR on the basis of the materials available on record. It is, however, made clear that the authority will not be influenced by any observation that has been made by the learned Single Judge in order dated 21.03.2007 while finalizing the departmental proceeding.

With the aforesaid observation, the writ appeal stands dismissed

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