

**IN THE HIGH COURT OF TRIPURA
AGARTALA**

W.P.(C) No.272 Of 2008

Sri Shyamal Bhowmik,
son of Sri Jadab Chandra Bhowmik,
resident of Vill., P.O. & P.S. Santirbazar,
District South Tripura.

..... Petitioner

- Vs -

1. The State of Tripura,
represented by the Commissioner & Secretary to the
Govt. of Tripura, Department of Education (Schools),
Agartala, West Tripura.
2. The Director of Education (Schools),
Department of Education (Schools),
Govt. of Tripura, Agartala, West Tripura.

..... Respondents

**B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the petitioner : Mr. A. Lodh, Advocate

For the respondents : Mr. T.D. Majumder, G.A.

Date of hearing & order : 31.05.2014

Whether fit for reporting :

Yes	No
	v

JUDGMENT & ORDER (ORAL)

Heard Mr. A. Lodh, learned counsel appearing for the petitioner as well as Mr. T.D. Majumder, learned Govt. Advocate appearing for the respondents.

2. The undisputed facts unfolded in the writ petition is that the petitioner while working as the Graduate teacher in the Kathaliachara S.B. School, Santirbazar, South Tripura, was placed under suspension by the order dated 19.04.2001, Annexure-1 to the writ petition, in contemplation of a disciplinary proceeding and, on exercise of the powers conferred by sub-rule (1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Thereafter, by the Memorandum dated 29.05.2002, Annexure-2 to the writ petition, the following charge had been levelled against the petitioner :

"Shri Shyamal Bhowmik while functioning as Graduate Teacher at Kathaliachara Sr.B. School, Santirbazar, Belonia under Inspector of Schools, Santirbazar is reported to have been involved in Cinema business in a V.D.O. Hall named "Shayan" located at Santirbazar, Belonia, South Tripura. A preliminary enquiry was conducted jointly by Shri K. Reang, Inspector of Schools, Santirbazar as on 27.2.2001 and the Dy. Inspector of Schools, Education Inspectorate, Santirbazar as on 27.2.2001. It is prima facie established from the enquiry report that Shri Bhowmik, G/T is involved in Cinema business without obtaining any permission from the competent authority; which he cannot do being a Govt. employee under the provision to Rule 15(1) of the T.C.S. (Conduct) Rules, 1988. By engaging himself in commercial activities Shri Bhowmik establishes his lack of devotion to duty as a Govt. employee and this is completely unbecoming on his part which is misconduct within the meaning of clauses (ii) and (iii) of sub-rule (1) of Rule 3 of the T.C.S. (Conduct) Rules, 1988."

3. The petitioner denied the said charge by filing the written statement of defence and, as a result, the Departmental

Enquiry was initiated by the Disciplinary Authority. However, by the order dated 09.07.2002, Annexure-3 to the writ petition, the order of suspension of the petitioner w.e.f. 25.04.2001 to 30.07.2002, has been revoked with immediate effect, but it has been observed that the entitlement of the petitioner for the period of his suspension would be decided on finalisation of the disciplinary proceeding.

4. After the inquiry was complete, the Inquiring Authority had filed the Enquiry Report dated 13.02.2006 and, a copy of the said Enquiry Report was forwarded to the petitioner by the Memorandum dated 18.03.2006, Annexure-7 to the writ petition, enabling the petitioner to make any representation against the said Enquiry Report.

5. It appears from the Enquiry Report that the Article of charge as brought against the petitioner has been held proved against the petitioner and, thus, the petitioner was found guilty of violating the Rules 15(1) and 3(I)(ii)(iii) of the Tripura Civil Services (Conduct) Rules, 1988. In pursuance to the said Enquiry Report dated 13.02.2006, the Disciplinary Authority had passed the order dated 22.06.2006, Annexure-8 to the writ petition on consideration of the representation so filed by the petitioner in response to the Memorandum dated 18.03.2006 and on taking a lenient view the minor penalty of 'censure' has been imposed to the petitioner on treating the period of suspension as spent on

duty for all purposes. Though the petitioner filed an appeal against the said decision, but by the order dated 29.10.2007, Annexure-9 to the writ petition, the said appeal was dismissed holding that the penalty imposed by the Disciplinary Authority, the Director of School Education is justified. Challenging the said final order dated 22.06.2006 and the appellate order dated 29.10.2007, this petition has been filed by the writ petitioner.

6. Mr. A. Lodh, learned counsel appearing for the petitioner has submitted that the finding in the Enquiry Report is not based on any evidence.

7. From the evidence of PW.3, it is found that the petitioner was attending the meeting of the Cable Operators, being the proprietor of the hall at Santirbazar. Through that hall, the petitioner was doing the business by screening films. As such, it cannot be stated that there was no evidence as contended by the writ petitioner.

8. Mr. Datta Majumder, learned Govt. Advocate appearing for the respondents has submitted that the petitioner may not be allowed to convert this court into a court of appeal for purpose of reappraisal. In the matter of Departmental Enquiries, the scope of the judicial review is well delineated and is very limited. If there is any violation of the statutory safeguards or the principles of natural justice or if it was a case of no evidence, the

finding of the Disciplinary Authority can be interfered with. Here is a case where no such allegation is founded.

9. From the scrutiny of the record, it has further surfaced that there are materials against the petitioner and it cannot be held that the petitioner has no involvement with the said business, even though the petitioner has taken a stand that his sister was the proprietor of the concerned hall.

10. Having held so, this court does not find any merit in this case. Accordingly, this petition stands dismissed. There shall be no order as to costs.

JUDGE

ROY