

WP(C) 7894/2016

BEFORE

HON'BLE MR. JUSTICE SUMAN SHYAM

Heard Mr. B.D. Das, learned senior counsel assisted Ms. S.G. Baruah, learned counsel for the petitioner. Also heard Mr. C. Bhattacharjee, learned Standing Counsel, Secondary Education Department, appearing for respondent nos. 1, 2 and 3 whereas Mr. R.B. Bora, learned Standing Counsel, BTC, appearing for respondent nos. 4 and 5.

Aggrieved by the order dated 16/12/2016 issued by the respondent no. 2 placing the petitioner under suspension pending drawal of departmental proceeding, the instant writ petition has been filed with a prayer to set aside the order of suspension. Mr. Das, learned senior counsel appearing for the petitioner, submits that during the pendency of this writ petition, departmental proceeding has already been initiated against the petitioner and the same is under progress. However, referring to the order of suspension, the learned senior counsel submits that there is no necessity under the Rules to keep an employee under suspension during the continuance of the disciplinary proceeding and, therefore, the authorities ought to have reviewed the order of suspension periodically.

Mr. Bhattacharjee, learned Standing Counsel, Secondary Education Department submits that he is yet to receive instruction in the matter.

Although, an employee does not have any right to be reinstated during the continuance of a departmental proceeding, yet, fairness would demand that the authorities periodically reviewed the order of suspension so as to ascertain as to whether continuance of the order of suspension was necessary and would be in the best interest of the department. By placing an employee under suspension, the department does not stand to gain anything. The basic purpose of placing an employee under suspension is to ensure that departmental record and/or evidence connected with the proceeding is not tempered by the delinquent.

Keeping in mind the purpose behind placing an employee under suspension, the writ petition is disposed of by granting liberty to the petitioner to approach the respondent no. 2 by filing appropriate representation seeking review of the order of suspension dated 16/12/2016. If such a representation is filed within a period of two weeks from today, the same would be considered on merit. On a proper review of the facts and circumstances, a decision be taken by the respondent no.

2 as to the need for continuance of the order of suspension in respect of the petitioner.

Let the decision be taken by the respondent no. 2 within a period of four weeks from the date of receipt of a copy of the representation along with certified copy of this order.

With the above observation, the writ petition stands disposed of.

There would be no order as to costs.