14

18.02. 2021
jb.

W.P.A. 16042 of 2018

(Dr. Shishir Kumar Biswas vs. State of West Bengal & Ors.)

Mr. Suddhasatva Banerjee
Mr. Shashwat Nayak
Ms. Sunanda De Sarkar
Mr. Aniruddha Dutta
Mr. Sumit Biswas
.... For the Petitioner

Mr. Santanu Mitra
Mirza Kamruddin
.... For the State

The grievance of the petitioner is directed against a Memo dated 31st July, 2017 being Annexure P/4 to the writ petition (hereinafter referred to as the 'impugned Memo'). By the impugned Memo the respondent Nos. 4 and 5 representing the Haringhata Mahabidyalaya removed the petitioner from the post of the Head of the Bengali Department primarily on the ground of a physical disability of the petitioner i.e. eye blindness.

It is submitted on behalf of the petitioner that the ground alleged in the impugned Memo is violative of the constitutional rights of the petitioner and is also in contravention of the provisions of the Rights of Persons With Disabilities Act, 2016. In particular, the petitioner

relies on Section 20 of the said Act to contend that there can be no discrimination against any person with any disability in any matter relating to his employment. It is further submitted on behalf of the petitioner that the acts of the respondents authorities are illegal and discriminatory and the impugned Memo is also in violation of the principles of natural justice.

Counsel on behalf of the State submits that the impugned actions are that of the Governing Body of the concerned College and the State has no role whatsoever to play in the issuance of the impugned Memo. Notwithstanding repeated directions, none appears on behalf of the respondent Nos. 4 and 5. In this connection, an affidavit-of-service is also filed by the petitioner in Court today.

I have considered the pleadings and the submissions made on behalf of the parties.

On a perusal of the impugned Memo it is evident that save and except physical disability on the ground of eye blindness, there is no other ground alleged in the impugned Memo whereby the petitioner has been removed as Departmental Head from the Department of Bengali in the concerned college. I find that impugned Memo is also in direct violation and contravention of the

provisions of the Rights of Persons With Disabilities Act, 2016 and particularly violative of the provisions of Section 20 of the said Act.. There is nothing on record to support the impugned actions taken by the Managing Committee of the college.

In view of the aforesaid, the writ petition is allowed.

The impugned Memo is cancelled and set aside.

With the aforesaid directions, W.P.A. 16042 of 2018 is allowed. The respondent authorities are directed to take appropriate steps in accordance with law.

However, there shall be no order as to costs.

Photostat certified copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Ravi Krishan Kapur, J.)