

Sanjay Kumar Vs. The Calcutta Boys' School and Ors.

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Court : Kolkata

Decided On : Jul-14-2016

Judge : Shivakant Prasad

Appellant : Sanjay Kumar

Respondent : The Calcutta Boys' School and Ors.

Judgement :

IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction Original Side Present : The Honble Justice Shivakant Prasad July 14, 2016 WP521of 2016 Sanjay Kumar versus The Calcutta Boys School & ORS.WP522of 2016 Bimla Balmiki versus The Calcutta Boys School & ORS.WP523of 2016 Bansi Jana @ Bansi Jana versus The Calcutta Boys School & ORS.WP524of 2016 John Gomes versus The Calcutta Boys School & ORS.WP525of 2016 Benhur Roy versus The Calcutta Boys School & ORS.Mr.Jayanta Banerjee, Advocate with Mr.Sunil Kumar Chakraborty, Advocate Ms.Rama Chakraborty (Mukherjee).Advocate Ms.Sreetama Neogi, Advocate for the petitioners MRS.Chama Mukherjee, Advocate for the respondents The Court :- In all the five sets of writ applications the petitioners have prayed for issuance of a writ in the nature of prohibition prohibiting the respondent authorities from taking any steps on the basis of the impugned show cause notice dated April 12, 2016 vide Annexure P-2.

The petitioners are employed in the school and have been issued show cause notice.

They have been placed under suspension and subsistence allowance is being paid to them.

It would be profitable to reproduce the show cause notice issued by the Enquiry Committee constituted by the management of the Calcutta Boys School which reads as under :- Mr.Benhur Roy, 6/1, Pan Bagan Lane, Kolkata-700 014, 12th April, 2016 SUB:- SHOW CAUSE NOTICE Dear Mr.Benhur Roy, The Management is constrained to issue upon you, Mr.Benhur Roy, the instant Show Cause notice seeking an explanation from you within seven days from the date of receipt of the same, on the following grounds :1.

That despite having been put on notice dated 27.04.2015 that the photograph of the support staff would be taken on 28.04.2015, you refused to participate in the photograph session, though you were present in school on the said date.

Notice had been issued dated 29th April, 2015 being under Ref no.CBS/0215-16/SP.

2. It has come to the notice of the Management that in support of the complaint being Taltala P.S.Case No.288 dated 08.08.2013 under section 377 India Penal Code, filed by Mr.Arur Rong have specifically recorded his statements that you are a witness to the facts on 26.08.2013, 04.09.2013 and 09.09.2013, your co-workers Mr.Banshi Jana and Mr.Sanjay Kumar were threatened with dire consequence by the Principal of Calcutta Boys School, Mr.Raja McGee and Office Assistant, Mr.Indraman Jaiswal inside the Principals room in front of his office and at a place, which use to be canteen of the school.

In your letter dated 05.09.2013 written in response to the letter of explanation issued upon you, directing you to explain your act of absenting yourself from the school premises at around 8:35 A.M.on 04.09.2013, for the purpose of rushing one Mr.Arur Rong (ex-employee) to the hospital.

It is incomprehensible how you could be a witness to the acts alleged on 04.09.2013 at 09:30 A.M. inside the Principals Room.

That Mr. Arup Rong (ex-employee) had cast certain malicious and serious allegation against the Principal and Secretary of the school dated 08.08.2013 alleging having been subjected to acts of unnatural sex in June, 2011.

The statements referred to above including others have been made by you, before the Investigating a specific complaint made by Mr. Arup Rong alleging that the Principal and Secretary and the Office Staff of the School are threatening the witnesses in respect of the allegation made in complaint dated 08.08.2013 filed by Mr. Arup Rong.

Hence your acts of negligence, refusal, denial and/or insubordination in refusing to accept specific direction, coupled with your act of deliberate conspiracy, collusion and connivance with Mr. Arup Rong to dishonour malign and tarnish the reputed image of the Calcutta Boys School by recording false and malicious allegation against the office of Principal and Secretary of the said Calcutta Boys School held by Mr. Raja McGee and the Office of the Office Staff, Mr. Indraman Jaiswal is a serious act of major misconduct, which if proved invite major punishment, including dismissal / termination from service.

You are hereby directed to reply to this Show Cause notice within seven days from the date of receipt of this Notice as to why the Management should not initiate disciplinary proceeding against you and pending such proceeding suspend you from your services in accordance with law.

Should you refrain to reply and/or choose not to reply to the instant Show Cause notice the Management shall deem it to be an act of admittance on your part and take necessary steps without reverting to you any further.

Sd/Rev Mahendra Mishra Enquiry Committee At this stage of hearing learned counsel for the respondents has placed a letter dated 29th June, 2016 of one of the petitioners, namely, Benhur Roy addressed to the Principal of the Calcutta Boys School which reflects that in response to the letter dated 30th May, 2016 of

Enquiry Committee he is ready and willing to attend in person to participate in the hearing of the case and to submit written statement about his defence against the alleged allegation of insubordination and has further requested the Enquiry Committee to provide him little more time to allow him to take the assistance of legal practitioner as he is not in the knowledge of the proceeding drawn up by the Enquiry Officer against him.

It is submitted by MRS.Mukherjee, learned counsel for the respondents that all the petitioners have communicated such letter to the authority of Enquiry and they are ready and willing to participate in the enquiry process.

It is for the Enquiry Authority who has to decide for offering an opportunity to the petitioners/delinquents to have a defence assistant of his choice.

Accordingly these sets of writ applications can be disposed of with a common order with this finding that since the petitioners have already submitted to the Enquiry Authority, the Enquiry Authority will give proper opportunity to the petitioners to submit their defence statement and to offer them the defence assistant from any of the senior members of staff of the school or if they desire any legal assistance may be given from any Lawyer of their choice.

Accordingly, the Enquiry Authority after submission of a statement of defence will conclude the enquiry proceedings preferably within one month from date without affording any unnecessary time to the petitioners.No costs.

Let urgent photostat certified copy of this order be given to the parties, if applied for, upon compliance of all formalities.

(Shivakant Prasad, J.) ANC

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