

(2025) 07 OHC CK 1253

In the Orissa High Court

Case No : Writ Petition (C) No. 7203 Of 2025

Sudhir Kumar Rout

APPELLANT

Vs

State Of Odisha & Others Vs

RESPONDENT

Date of Decision : 04-07-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Odisha Education Act, 1969 — Section 7(6)

Odisha Education (Recruitment and conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974 — Rule 20, 21, 21(1), 22(12)

Odisha Education (Establishment, recognition and Management of Private Colleges) Rules, 1991 — Rule 25

Citation : (2025) 07 OHC CK 1253

Hon'ble Judges : Sashikanta Mishra, J

Bench : Single Bench

Advocate : Sameer Kumar Das, P.K.Behera, S.N.Patnaik

Final Decision : Dismissed

Judgement

Sashikanta Mishra, J

1. The Petitioner seeks to challenge the order dated 23.1.2025 passed by Sub-Collector, Jajpur-cum-President, Governing Body of Abhimanyu Samant Singhar (Degree) College, Balia (herein after, the College), whereby he was placed under suspension pending drawl of disciplinary proceeding against him for negligence in Government duty as also for abscondance.

2. Shorn of unnecessary details, the facts of the case are that the Petitioner was appointed as a Lecturer in History by the Governing Body of the College on 22.4.1992 and joined as such on 27.4.1992. The appointment of the Petitioner was approved by the Government. The College was bifurcated into +2 and +3 wings pursuant to order dtd.8.4.2016 passed by this Court in W.P.(C) No.22530/2012. The Petitioner, being the senior-most teaching staff was approved as Principal-in-charge of the College by order dated 12.1.2017 of the

Director of Higher Education. Again on 02.8.2019, the Petitioner was approved as Principal-in-charge-cum-Secretary of the Degree College in supersession of the earlier order. On 23.12.2024, the State Government issued a Notification exercising power under Section 7(6) of the Odisha Education Act, 1969, inter alia, dissolving the Governing bodies of all Non-Government Aided Degree Colleges and directing the Sub-Collector of the Sub-Division concerned to temporarily act as President of the Governing Body until further orders. In the meantime, a complaint was lodged by a girl student of the College alleging misbehavior by a Lecturer. An F.I.R. being filed also against the Petitioner, he appeared before the concerned Court and was released on bail. The Sub-Collector however, passed the impugned order on 23.1.2025 placing him under suspension. It is stated that such order is entirely without jurisdiction as the Sub-Collector, in view of the settled position of law, cannot take any disciplinary action against an employee of the College, a power available only to the Governing Body as per Rule 21 of the Odisha Education (Recruitment and conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974 (for short "1974 Rules"). The Sub-Collector cannot function as the disciplinary authority in the absence of the Governing Body. Citing the above facts, the Petitioner has approached this Court with the following prayer;

"Under the above circumstances, it is therefore humbly prayed that the Hon'ble Court be graciously pleased to quash the office order no. 1058 dtd: 23.01.2025 of the Sub-Collector, Jajpur (Opp. Party No.3) under Annexure-8 as it is without jurisdiction and authority and in clear violation of Rule-21 of the 1974 Rules and the judgments of this Hon'ble Court in W.P.(C) No. 34453 of 2021 disposed of on 03.01.2024 (Baijayanti Nayak Vs. State of Odisha and others) and Sri Satya Sai Seva Organization and another Vs. State of Odisha and others, reported in (2008) 2 OLR-432;

And/or pass any other writ/writs, order/orders/direction/directions in the fitness of the case.

And for this act of kindness as in duty bound the petitioner shall ever pray."

3. Counter affidavit has been filed on behalf of the State-Opp. Party No.1. It is stated that the incident arising out of the complaint lodged by a +3 final year girl student came to the knowledge of the Opp.Party No.1 to the effect that she had been molested by one Bidyadhar Dhal, Lecturer of the said College, and the Petitioner being the Principal had protected said Bidyadhar Dhal. As such, an F.I.R. was lodged by the victim before Ramachandrapur Police Station. Having regard to the above facts, the Special Secretary of the Department requested the Regional Director of Education to cause an inquiry. An inquiry was conducted following the procedure laid down under The Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal Act) 2013. In the said inquiry, it was ascertained that the victim was sexually harassed on 06.1.2025 during conduct of Physics practical examination by Bidyadhar Dhal, a Lecturer. Though

the matter was intimated to the Principal i.e. the present Petitioner over phone, the victim could not meet him but he instructed another faculty member to mediate and settle the issue by approaching the victim with assurance of grant of good marks in the ensuing semester examination. The Petitioner also asked the faculty member to prevent the victim from lodging any police complaint against the accused Lecturer. The victim however did not accept such request for which the Petitioner did not allow her to appear in the examination on 15.1.2025. She therefore wrote the examination under police protection. The matter having gained adverse publicity in the print and social media, the petitioner remained on leave from 18.1.2025 on the ground of his wife's illness. It thus came to light that the Petitioner, instead of working for the interest of girl students acted in assistance of the accused lecturer and tried to suppress the matter by not taking any action against him. Moreover, the victim was not given any opportunity of hearing, rather she was threatened and allured not to report the matter to the authority. The inquiry committee therefore, suggested to draw proceeding against the Petitioner for taking exemplary action against him. Under such circumstances, the Sub-Collector, who was appointed temporarily to work as President of the Government Body, vide Notification dated 23.12.2024 issued the impugned order suspending the Petitioner from duty. It is further stated that the Sub-Collector has the authority to take disciplinary action under Rule 21 of the 1974 Rules. The order of suspension was an administrative step to contain the growing law and order situation.

4. The Petitioner filed a rejoinder reiterating the averments made in the Writ Petition. It is stated that he is in no way involved in the sexual harassment matter. Moreover, he has been released on bail by the competent court. He was unnecessarily dragged into the criminal case. The allegation that he did not take appropriate action is completely false and baseless and the inquiry report cannot be accepted as the same was conducted behind his back. The Petitioner could not have taken any action against a co-lecturer in the absence of the Governing Body. It is also stated that Notification dated 23.12.2024 has no application as per the ratio decided by this Court in the case of Sri Satya Sai Seva Organization and another Vs. State of Odisha and others, (2008) 2 OLR-432 and for the stipulation contained in the Notification itself that it would not apply to a College of which any case relating to Governing Body is sub-judice. At the relevant time W.P.(C) No.39349/2023 filed by one Basanta Kumar Jena challenging the nomination of Sub-Collector as President on an earlier occasion was pending. Said Writ Petition was ultimately disposed of on 22.1.2025 by quashing the nomination of the Sub-Collector to act as President with further direction to the Government to take decision on the recommendation of the Collector, Jajpur for reconstitution of the Governing Body.

5. Heard Mr. S.K.Das, learned counsel for the Petitioner and Mr. S.N.Patnaik, learned A.G.A. for the State.

6. Mr. Das assails the impugned order by submitting that it is no longer res

integra that the Sub-Collector nominated to act as President of the Governing Body has no power to act as the Governing Body itself, which is the disciplinary authority. The College in question has no Governing Body. The Collector, Jajpur recommended three names but instead of acting upon the same, the State Government nominated the Sub-Collector, Jajpur as President by order dtd.22.11.2023. Said order was set aside by a co-ordinate Bench (W.P.(C) No.39349/2023). No further action has been taken by the Government pursuant to such order. Mr.Das therefore, argues that the Sub-Collector is no longer the President of the Governing Body. As regards the Government Notification dtd.23.12.2024, Mr. Das would argue that the same is not applicable in the present case. It specifies that the institutions of which cases relating to Governing Body are sub-judice are not covered by the Notification. Admittedly, W.P.(C) No.39349/2023 was pending as on 23.12.2024. Ultimately, the appointment of the Sub-Collector as President being set aside, he had no authority as on 23.1.2025 to issue the impugned order. Mr. Das however, fairly admits that as per Rule 21(1) of the 1974 Rules, the Director himself can initiate disciplinary proceeding or impose any penalty on an employee in the event there is no Governing Body or the Governing Body neglects to do so. In the instant case, the Director has not placed the Petitioner under suspension. Therefore, the order of the Sub-Collector is wholly without jurisdiction. Mr. Das has cited the following judgments to buttress his contentions;

“(1) Sri Satya Sai Seva Organization and another Vs. State of Odisha and others, reported in (2008) 2 OLR-432;

(2) Smt. Kamalini Dhal Vs. State of Odisha and others passed in W.P.(C) No. 17174 of 2015 disposed of on 23.02.2016;

(3) Dr. Uttam Kumar Rout Vs. State of Odisha and others passed in W.P.(C) No.7797 of 2012 disposed of on 26.03.2014;

(4) Surendra Mahanta Vs. State of Odisha and others disposed of on 08.08.2022 in W.P.(C) No. 20396 of 2018;

(5) Baijayanti Nayak Vs. State of Odisha and others (W.P.(C) No. 34453 of 2021 disposed of on 03.01.2024).”

7. Mr. S.N.Patnaik, on the other hand, would argue that the arguments advanced by the Petitioner’s counsel is based on misconception inasmuch as even if the order dtd.22.11.2023 nominating the Sub-Collector to act as President of Governing Body was set aside by the Co-ordinate Bench, the Notification dtd.23.12.2024 would automatically be applicable to the Petitioner College for the reason that the bar regarding pendency of a case relating to Governing Body was automatically removed by disposal of the Writ Petition (W.P.(C) No.39349/2023) on 22.1.2025. So, as on 23.1.2025, the date on which the impugned order was issued, there was no case pending. As per said Notification, the Sub-Collector was directed to act temporarily as the President of the Governing Body until further orders. As regards, the settled position of law cited

by the Petitioner's counsel that the Sub-Collector as President cannot function as the Governing Body, Mr. Patnaik would argue that Rule 21 of the 1974 Rules empowers the Director to initiate disciplinary action against an employee of the Institution. As per office order dtd.20.10.2020 followed by the Office order dtd.11.5.2021 of the Government in the Department of Higher Education, Special Secretary/Addl.Secretary/Joint Secretary/Deputy Secretary working as Branch head of non-Government Colleges (Teaching-1) Section of the Department have been authorized to act as Director for dealing with the subjects covered under 1974 Rules.

In the instant case, after taking note of the allegations levelled and the facts ascertained in the inquiry conducted, the Special Secretary to Government vide order dtd.22.1.2025 instructed the President-cum-Sub-Collector to take immediate disciplinary action against the persons concerned on the basis of inquiry report or any other prima facie evidence. He was also instructed to assign the charge of Principal to the next senior faculty member. Mr. Patnaik concludes his arguments by submitting that the allegations of sexual misconduct levelled by a girl student of the College are grave and serious and, prima facie, the Petitioner, despite being in a position of authority as the Principal was complicit and guilty of not taking proper action at the relevant time.

8. In view of the facts narrated and the rival contentions advanced by the parties as narrated above, it is evident that the first point that falls for consideration of this Court is, whether the Sub-Collector, purportedly acting as the President of the Governing Body of the College, was competent in law to place the Petitioner under suspension pending drawl of disciplinary proceeding against him.

9. To answer this, it would be apposite to mention that the Sub-Collector was nominated to act as President of the Governing Body by order dtd. 11.12.2023. In the case of Sri Satyasai Seva (supra) followed in several decisions of this Court, it has been held that the Sub-Collector can only function as the President of the Governing Body, but cannot act as the Governing Body. In other words, the Sub-Collector may function as the President but lacks power to initiate or take disciplinary action against an employee. The order dtd.22.11.2023 was challenged before this Court in W.P.(C) No.39349/2023 by another person. A co-ordinate Bench of this Court set aside the nomination on the ground that the Government, acting on the recommendation of the Collector for reconstitution of the Governing Body has no power under Rule 25 of the Odisha Education (Establishment, recognition and Management of Private Colleges) Rules, 1991 (for short 1991 Rules) to nominate the Sub-Collector as the President. Learned State counsel has heavily relied upon the subsequent Notification dtd.23.12.2024 whereby the Governing Body of all non-Government Aided Educational Institutions was dissolved and the Sub-Collector of the concerned Sub-division (for Colleges situated outside the District Headquarters) were directed temporarily to act as President of the Governing Body until further orders. According to learned State counsel, even if the order dtd.22.11.2023 was

quashed, the Notification dated 23.12.2024 automatically comes to the picture as on 23.1.2025. This Court is unable to accept such argument for the reason that the Notification dated 23.12.2024 is in respect of those institutions of which the Governing Body was functioning. The language used is as follows:

“In exercise of powers conferred under proviso to Sub-Section (6) of Section-7 of the Orissa Education Act, 1969, pending reconstitution of the Governing Bodies or the Managing Committees, the Government after careful consideration have been pleased to dissolve the Governing Bodies or Managing Committees of all Non-Government Aided Degree Colleges of Odisha.....”.

(Emphasis added)

This implies, the Governing Bodies, wherever they existed were dissolved. This would also mean that the Notification will have no application in respect of Institutions of which the Governing Bodies had already been dissolved. For such institutions, the Notification dated 23.12.2024 would be redundant as there was no Governing Body to dissolve, which is an affirmative and positive action taken by the Government. So, the argument that the Notification dated 23.12.2024 would automatically apply after the earlier Notification was set aside by this Court is untenable more so, as the same would also run contrary to the judgment of the Co-ordinate Bench. So, there is force in the submission of the learned counsel for the Petitioner that the Sub-Collector acting as the President of the Governing Body could not have placed the Petitioner under suspension.

10. The factual position, in the instant case, is however different as the matter cannot be set at rest merely by invoking the general principle that the Sub-Collector cannot initiate any disciplinary action against an employee. Fact remains that the impugned order was issued not out of the blue by the Sub-Collector but on the express direction of the Special Secretary to the Government in the Higher Education Department who, as already stated, is authorized to act as the Director in terms of 1974 Rules. It would be apposite at this stage to refer to the relevant letters of the Government i.e., 20.10.2020 and 11.5.2021, both of which are reproduced below:

“GOVERNMENT OF ODISHA

DEPARTMENT OF HIGHER EDUCATION

No. HE-NGCE(T-II)-MISC-22-2020-34042/HE.,

Dated 20-10-2020

OFFICE ORDER

In pursuance to Rule 2 (b) of Odisha Education (Recruitment and Condition of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974, Government have now been pleased to authorise the Special Secretary/ Additional Secretary/ Joint Secretary/ Deputy Secretary, working as Branch Head of the Non-Govt. College Establishment (Teaching-1) Section of the

Higher education Department, to act as Director for dealing with the subjects covered under the said Rules in respect of teaching and administrative staff of aided educational institutions.

However, Director (Higher Education) will continue to exercise his power under the said Rules, as the Director, in respect of the non-teaching staff of these aided educational institutions.

By Order of Governor

Commissioner-cum-Secretary to Govt.

Higher Education Department.

xxx xxx xxx xxx xxx."

"GOVERNMENT OF ODISHA

DEPARTMENT OF HIGHER EDUCATION

NO. HE-NCET 2-MISC-0040-2020/20027 /HE, Bhubaneswar dated the 11.0.5.2021 From

Saswat Mishra, IAS

Principal Secretary to Government

To

Principals (All 488-Category and 662-Category Aided Colleges)

Sub

Service Conditions/Transfer & Posting of Teaching Staffs of Non-Government Aided Colleges Sir/Madam,

Directorate of Higher Education was integrated with the Department of Higher Education vide this Department Notification No. 22850, Dated 30.10.2019. Consequent upon the integration and restructuring of this Department, Special Secretary/ Additional Secretary/Joint Secretary /Deputy Secretary acting as the Branch Head of the Non-Government College Establishment (Teaching-1) Section of Higher Education Department has been authorized to act as Director for dealing with subjects like transfer, posting and service conditions in respect of teaching and administrative staff of aided educational institutions as per Rule 2(b) of The Odisha Education (Recruitment and Condition of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules,

1974 and Rule 2(b) of The Odisha Aided Education Institutions Employees Common Cadre and inter transferability Rules, 1979 vide this Department Office Order No.34042/HE, Dated 20.10.2020 and Order No.16524/HE, Dated 08.04.2021 respectively.

Similarly, as per Office Order No.24810, Dated.27.07.2020, Government in

Higher Education Department have declared Special Secretary/ Additional Secretary/Joint Secretary/Deputy Secretary acting as the Branch Head of the Non-Government College Establishment (Teaching-1) Section as the Competent Authority, instead of Director (Higher Education), to accord necessary approval for appointment of Principal-in-Charge of Aided Colleges and issue order empowering the Principal-in-Charge to make all financial transactions on behalf of the college.

However, as was the practice earlier, correspondences are still being made with the Director (Higher Education) which causes dislocation and delay in disposal of the cases. In view of this, you are hereby advised to henceforth make all correspondences on the above-mentioned subject matters with the Branch Head of the Non-Government College Establishment (Teaching-1) Section of the Higher Education Department, instead of Director (Higher Education).

Yours faithfully

Principal Secretary to Government

xxx xxx xxx xxx xxx."

Thus, it is evident that the Special Secretary in the department of Higher Education was authorized to act as Director at least in respect of matters concerning the 1974 Rules.

11. In this context, it is highly significant to note that the impugned letter was preceded by letter dtd.22.1.2025 of the Special Secretary (copy enclosed as Annexure-C/1 to the counter affidavit) requesting the Regional Director of Education to cause inquiry as per 2013 Act, which was also issued to the Sub-Collector under a Memo containing the following instructions:

"Copy forwarded to the President-cum-Sub-Collector, GB of Abhimanyu Samant Singhar (Degree) College, Balia with a request to take immediate disciplinary action against the accused faculties on the basis of ICC Report or any other prima facie evidence."

He is also requested to assign the charge of principal to the next senior faculty member and submit seniority-cum-suitability report in the prescribed format for appointment of principal and delegation of financial power."

(Emphasis added)

These instructions cannot simply be ignored in the context of the present case.

12. It would be apposite to refer to Rule 21(1) of the 1974 Rules at this stage, the relevant portion of which is re-produced below;

"21(1) Disciplinary authorities-(1) The Director may impose any of the penalties specified in Rule 20 on any employee:

Provided that the Director shall not initiate any disciplinary proceeding unless the

Managing Committee or the Governing Body, as the case may be, refuses or neglects to take disciplinary action against any employee.”

13. It goes without saying that law does not envisage a vacuum. If the argument of the Petitioner is accepted and the impugned action of the Sub-Collector is set aside, it would create a vacuum in that there would be no authority to take disciplinary action against an errant employee even if the situation so demands. This could not have been the intention of the legislature while framing the 1974 Rules. It is for such purpose that the legislature in its wisdom empowered the Director to act as disciplinary authority in case of refusal or neglect of the Governing Body to do so. In a similar but slightly different context, this Court, in the case of *Girija Shankar Mohapatra vs. State of Odisha and others* (W.P.(C) No30343/2020) held as follows;

“21. Now, coming to the question of competence of the Sub-Collector in preparing the draft charges against Girija Shankar Mohapatra in the capacity of Special Officer and of the Director in approving such charges, it has been argued that no authority other than the governing body has the power to initiate and take disciplinary action against a staff and that the Director has only an advisory jurisdiction in terms of Rule-22(12) of the 1974 Rules. This Court is unable to accept the above arguments – firstly, for the reason that if such is the interpretation then a vacuum would be created inasmuch as there would be no one competent to take disciplinary action against an errant employee till reconstitution of the governing body. Such a proposition would be absurd as there can be no vacuum in law. Reference to Rule-21 of 1974 Rules would indicate that the Director is competent to impose the penalty specified in Rule-20 with the proviso that the Director shall not initiate any disciplinary proceeding unless the governing body refuses or neglects to take disciplinary action against any employee. For immediate reference, Rule 21(1) of 1974 Rules is quoted hereinbelow:

“21(1) The Director may impose any of the penalties specified in rule 20 on any employee: Provided that the Director shall not initiate any disciplinary proceeding unless the Managing Committee or the Governing Body, as the case may be, refuses or neglect to take disciplinary action against any employee.”

22. Read as a whole, the interpretation according to this Court of the above provision would be that ordinarily it is the governing body which is competent to initiate disciplinary proceeding against an employee. But if it neglects or refuses to do so, the Director can himself initiate a disciplinary proceeding. The power to impose penalties is however, vested on the Director subject to the proviso. On the same analogy, in the absence of a governing body the Director can initiate the proceeding and impose penalties on an employee. Reference in this regard may be had to the decision of this Court in the case of *Dr. Upendra Sahoo vs. State of Odisha and others*; 2015 (Supp.1) OLR 1104 wherein the following observations are noteworthy:-

"12. From the above order of the High Court, it is crystal clear that this Court gave a clear direction to the opposite party no.2 therein, i.e., the Director, Higher Education, Bhubaneswar to conclude the disciplinary proceeding initiated against the petitioner within a period of four months with further direction to pay the arrear subsistence allowance entitled to the petitioner within a period of two months from the date of communication of the order. It is needless to submit here that Rule-21 of 74 Rules also makes it clear that if Governing Body is unable to conclude a proceeding the Director can exercise the power of Disciplinary authority hence and conclude the proceeding. In the present case in absence of a Governing Body the Director was directed to conclude the disciplinary proceeding. On conclusion of the Disciplinary proceeding at his end following Sub-rule 2(b) of Rule 21 on his recommendations the Government Body ought to have imposed any of the penalties specified in Rule 20 on the petitioner. xxx xxx xxx

(Emphasis supplied)"

23. Obviously, if any other interpretation would be made, it would render the very object of the provision otiose inasmuch as it would entail a situation where, as already stated, there would be no authority competent to take action against an errant employee. In other words, a vacuum! The above could not have been the object of the statute. It is well settled that the Court must construe the statute to promote its object and to serve the purpose for which it had been enacted and not deface its very purpose. Reference in this regard may be had to the judgment of the Supreme Court in the case of *RBI v. Peerless General Finance & Investment Co. Ltd.*; (1987) 1 SCC 424, where the following observations are noteworthy:

"33. Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. It is by looking at the definition as a whole in the setting of the entire Act and by reference to what preceded the enactment and the reasons for it that the Court construed the expression "Prize Chit" in *Srinivasa* [(1980) 4 SCC 507 : (1981) 1

SCR 801 : 51 Com Cas 464] and we find no reason to depart from the Court's construction."

24. Further, a statute is designed to be workable, and the interpretation thereof by a Court should be to secure that object. Further, the Courts strongly lean against any construction which tends to reduce a statute to futility. The provision of the statute must be so construed as to make it effective and operative. Reference in this regard may be had to the judgment of the Supreme Court in the case of Tinsukhia Electric Supply Co. Ltd. v. State of Assam, where the following observations are noteworthy.

The courts strongly lean against any construction which tends to reduce a statute to futility. The provision of a statute must be so construed as to make it effective and operative, on the principle "ut res magis valeat quam pereat". It is, no doubt, true that if a statute is absolutely vague and its language wholly intractable and absolutely meaningless, the statute could be declared void for vagueness. This is not in judicial review by testing the law for arbitrariness or unreasonableness under Article 14; but what a court of construction, dealing with the language of a statute, does in order to ascertain from, and accord to, the statute the meaning and purpose which the legislature intended for it. In *Manchester Ship Canal Co. v. Manchester Racecourse Co.* [(1904) 2 Ch 352: 16 TLR 429 : 83 LT 274] Farwell J. said: (pp.360-61)

"Unless the words were so absolutely senseless that I could do nothing at all with them, I should be bound to find some meaning and not to clear them void for uncertainty."

14. Learned counsel for the Petitioner has accepted the above position in the note of arguments filed in the case, but has argued that the Director has not placed the Petitioner under suspension or instituted any disciplinary proceeding against him. For the reasons already indicated, this Court is unable to accept this argument. As already stated, the Sub-Collector never acted on his own but under the express directions of the Special Secretary, who is authorized to act as a Director. So even if it is held that the Sub-Collector was not functioning as the President of the Governing Body, the same is of no consequence as it would mean that he had merely communicated what the Special Secretary (authorized to act as a Director) had asked him to. So it is not a case of any disciplinary action being taken by the Sub-Collector as President of the Governing Body. Merely designating himself as such in the impugned order cannot serve to alter the factual position that he was acting on the directions of the Special Secretary, who was competent in law to do so.

15. Thus, from a conspectus of the facts, law, contentions raised and the discussion made, this Court is left with no doubt that the impugned order, though issued by the Sub-Collector cannot be interfered with on the ground of absence of authority. Even if it is accepted that he was no longer the President of the Governing Body or that he had no power to initiate any disciplinary action acting

as such, the same will not take away the express instruction of the Special Secretary, authorized to act as Director, and the Sub-Collector must be deemed to have merely communicated the same in the form of the impugned order. This Court is therefore, not persuaded to interfere with the same.

16. For the foregoing reasons therefore, the Writ Petition fails and is therefore, dismissed. There shall be no order as to cost.

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