

(2003) 02 JH CK 0056

In the Jharkhand High Court

Case No : Writ Petition (S) No's. 4263 and 5020 of 2002

T.N. Mukherjee etc.

APPELLANT

Vs

Delhi Public School and Others etc.
 Sanjay Kumar Jha
Vs Chairman, CBSE and Another

RESPONDENT

Date of Decision : 24-02-2003

Acts Referred:

Citation : (2003) 2 JCR 423

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Mahesh Tiwari and Sandhya Sahay, for the Appellant; P.K. Prasad, Dilip Jerath, Rajiv and Ranjan, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—In both the cases, as the common question of law is involved and the petitioners have challenged their respective orders of suspension and departmental proceeding, they were heard together and are being disposed of by this common order.

2. According to petitioners, they are non-teaching and teaching employees of Delhi Public School, Ranchi (DPS for short). It is alleged that the respondents have illegally placed both of them under suspension and continuing under prolong suspension for about three years without finalizing the departmental proceeding.

3. According to petitioner, Sanjay Kumar Jha of WP (S) No. 4263/02, Mr. Mahesh Bareja, Principal, DPS, Ranchi has no jurisdiction to take action against him.

4. The authorities of DPS, Ranchi on appearance have raised preliminary objection relating to maintainability of writ petition against DPS. It is stated that it is a private society registered under the Societies Registration Act and writ petition is not maintainable. Mr. Jerath, counsel for DPS further submitted that the proceeding has been concluded but because of pendency of the writ petition, final order has not been passed.

5. On the other hand, according to counsel for the petitioner, DPS is an authority and the writ petition is maintainable.
6. Mr. Mahesh Kumar Tiwary, counsel for T.N. Mukherjee of WP (S) No. 5020/02 further submitted that the petitioner has been acquitted of similar charge in the criminal proceeding for which corresponding departmental proceeding has been initiated.
7. Having regard to the facts and circumstances, in view of the fact that the respondents intend to conclude the departmental proceedings, the enquiry report having submitted, it is not necessary to determine the issue whether the writ petition against DPS is maintainable or not.
8. As informed by Mr. Jerath, counsel for DPS Ranchi, the respondents are supposed to conclude the departmental proceedings and pass final order within one month from the date of receipt/production of a copy of this order.
9. It will be open to the petitioner, T.N. Mukherjee to bring to the notice of the competent authority that he has been acquitted from the competent criminal Court for the same charges for which the parallel departmental proceedings was initiated.
10. If any application is preferred by petitioner, T.N. Mukherjee along a copy of the judgment of the Court below within one week, the competent authority will take into consideration the judgment at the time of final disposal of the departmental proceeding.
11. Both the writ petitions stand disposed of with the aforesaid observations/directions.