

HIGH COURT OF TRIPURA

A G A R T A L A

WP(C) 527 OF 2024

1. Anindita Bhoumik,

W/o Dr. Shibabrata Naha, R/o Bardowali, P.O. & P.S. A.D. Nagar,
Agartala, West Tripura, PIN: 799003, Age-40 years.

..... **Petitioner(s)**

- V e r s u s -

1. The Society for Tripura Medical College & Dr. BR Ambedkar

Memorial Teaching Hospital, (To be represented by its Chief
Executive Officer) at Hapania, Agartala, West Tripura, PIN-799014.

2. The Chairman,

Society for Tripura Medical College & Dr. BR Ambedkar Memorial
Teaching Hospital, at Hapania, Agartala, West Tripura, PIN-
799014.(The Appellate Authority).

3. The Chief Executive Officer,

Society for Tripura Medical College & Dr. BR Ambedkar Memorial
Teaching Hospital at Hapania, P.S. Amtali, Agartala, West Tripura,
PIN-799014.

4. Prof. Dr. Arindam Datta, Principal, TMC, Chairman,

5. Prof. Dr. Jayanta Kr. Poddar, Member,

6. Prof. Dr. Shib Sekhar Datta, Member,

[The Respondent Nos. 4, 5 & 6 are appointed as Inquiry Committee, vide
Memorandum, dated 31.10.2023, issued by the CEO, TMC & Dr. BRAM
Teaching Hospital at Hapania.]

Address:- O/o the Society for Tripura Medical College & Dr. BRAM Teaching
Hospital at Hapania, P.S. Amtali, Agartala, West Tripura, PIN-799014.

7. Sri Swapan Saha,

The Chief Executive Officer, O/o the Society for Tripura Medical
College & Dr. BRAM Teaching Hospital at Hapania, P.S. Amtali, Agartala,
West Tripura, PIN-799014.

.....**Respondent(s)**

For the Petitioner(s)

:

Mr. P. Roy Barman, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.
Mr. K. Nath, Advocate.

For the Respondent(s)

:

Mr. Debalay Bhattacharya, Sr. Advocate.
Mr. S. Saha, Advocate.

**Date of hearing & Date of
delivery of Judgment & Order : 22.01.2026**

Whether fit for reporting :

YES	NO
	✓

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (ORAL)

Heard Ld. Sr. Counsel Mr. P. Roy Barman assisted by Mr. S. Bhattacharjee, Learned Counsel for the petitioner.

[2] Also heard Mr. Debalay Bhattacharya, Ld. Sr. Counsel, assisted by Mr. S. Saha, Learned Counsel for the respondents.

[3] The petitioner on her initial appointment joined in the post of physiotherapist on 02.05.2006 in Tripura Medical College and Dr. BR Ambedkar Memorial Teaching Hospital, Agartala (for short 'TMC').

[4] The petitioner allegedly made a remark that 'without purchasing new machine, the bribe seeker OSD has given order to private organization without tender! Dumbfounded outsourcing unfortunate singer Banik is yelling' and posted the same in the Facebook platform.

[5] Based on the same, a notice to show cause was issued on 20.05.2021(Annexure-3) by the Chief Executive Officer (CEO) of said TMC to the petitioner with further allegation that her father on receipt of the information about the incident, made a courtesy visit at his own and met with the CEO and expressed his displeasure about the conduct of his daughter. But after departure of her father, the petitioner herself entered into the chamber of said CEO, charged him arrogantly in presence of others and also threatened him to face consequences even after repeated denial by the CEO that he did not call her father, rather, her father paid a courtesy visit. She was therefore, asked to show cause as to why appropriate action as per provision of the Service Conduct Rules, 2019 of the Society for Tripura

Medical College & Dr. BRAM Teaching Hospital should not be taken against her.

[6] She gave reply to the said notice by denying those allegations.

[7] The department thereafter, decided to hold an enquiry against her and accordingly issued memorandum dated 27.07.2021(Annexure-5) framing 4 numbers of articles of charges against her. First two charges were mainly concerning the said Facebook post and the other two charges were centering round her alleged misconduct and insubordination.

[8] The petitioner thereafter, filed WP(C) No.529 of 2021 challenging the said initiation of enquiry and vide judgment dated 09.02.2022, the High Court quashed the charge No. 1 and 2, but, allowed the other two charges to be continued with.

[9] After the order was passed by the High Court, the Disciplinary Authority engaged one Shri Narayan Debbarma, General Manager (HR) of that society as Inquiry Authority to which the petitioner objected challenging his impartiality on the ground that he was involved in the said affairs. Said prayer being declined, she approached the High Court again by filing WP(C) No. 318 of 2023 and vide order dated 17.10.2023, the High Court disposed of the matter on the submission from the side of the respondents that they were ready to change the Inquiry Officer.

[10] Accordingly, the society constituted an Inquiring Committee consisting of 3 persons vide memorandum dated 31.10.2023(Annexure-16) and said Committee proceeded with the enquiry.

[11] Said Committee fixed the date of enquiry on 15.11.2023 when the petitioner was asked to submit the preliminary statement and also asked to disclose the name of Defense Assistant, if any, who should not be an advocate.

[12] In the preliminary statement, the petitioner denied the charges and also disclosed the name of her Defense Assistant to be one Samarash

Paul, retired employee of District Judiciary. She also submitted her preliminary statement in writing.

[13] The Inquiring Committee, thereafter, fixed the next date on 28.11.2023 for examination of PWs and on 23.11.2023, the petitioner submitted a petition asking them to supply the information as to which of the witnesses will be examined on that particular day.

[14] On the next day itself, the Committee by holding an unscheduled meeting, rejected the said prayer observing that already list of witnesses were supplied to her. As per said list of witness, according to Ld. Sr. Counsel, Mr. P. Roy Barman, there were 4 numbers of witnesses cited therein.

[15] On 28.11.2023, said 4 witnesses were present but the petitioner sought adjournment on the ground that elder brother of the Defense Assistant was sick and was hospitalized. As it appears, the Committee was not satisfied with the said ground of adjournment, but, ultimately shifted the date to 05.12.2023 for the ends of justice.

[16] On 29.11.2023, she submitted another petition stating that during that period she will be on leave and prayed for rescheduling the date.

[17] On 05.12.2023, said 4 witnesses were present and again the Inquiring Committee shifted the date to 14.12.2023 and on the previous day of said date, the petitioner filed another petition before the said Committee asking for supplying her 3 (three) additional documents. On 14.12.2023, when said 4 witnesses were present, the Committee rejected the said prayer on the ground that additional document sought under Sl. No. B was not available and regarding another document under Sl. No. A, it was observed that no such document (call details of Phone No.94361220669) was there with the Disciplinary Authority. Regarding the document under Sl. No. C, it was observed that said document contained in a CD, was already supplied to the AO.

[18] On that day again, the Inquiring Committee re-fixed the date for examination of PWs on 16.12.2023 and on 16.12.2023 itself again the

petitioner submitted another petition for adjourning the proceeding for 15 days on the ground that against the said decision of Inquiring Committee for non furnishing of documents, she would challenge the same before the High Court.

[19] On 16.12.2023, said 4 witnesses were also again present but, AO was absent. Her prayer for adjournment on that day was declined and the Committee examined those 4 witnesses and fixed the date on 19.12.2023 for submission of defense statement by the petitioner and to submit list of her witnesses, if any.

[20] On 19.12.2023, AO was absent. Considering the previous conduct of the petitioner, the Committee decided to close the chapter of examination of defence witnesses and fixed the next date on 26.12.2023 for submission of prosecution argument.

[21] On 23.12.2023, the petitioner submitted a petition informing that she already filed a writ petition bearing No. WP(C) 796 of 2023 and next date of said writ petition was fixed on 02.02.2024 and therefore, she prayed for keeping the Departmental Proceeding in abeyance at least till 02.02.2024. She also informed that she was granted leave with station leave permission w.e.f 26.12.2023 to 30.12.2023 and therefore, she could not be available on 26.12.2023.

[22] The Inquiring Committee on 26.12.2023 turned down her said prayer. Said Committee on the basis of the submission of the presenting officer observed that she was very much available at the station and was avoiding her participation in the hearing of the case. The Committee further observed that it had not received any direction from the High Court and therefore, they decided to go ahead and fix the next date on 29.12.2023 for submission of defence argument.

[23] On the previous day of 29.12.2023, another petition was submitted by the petitioner to the said Committee that already she was granted station leave permission with leave to remain out of station w.e.f 26.12.2023 to 30.12.2023. According to the petitioner, she was on that day out of station and to prove the same she also submitted air ticket to the

Inquiring Committee. Ultimately, she again requested the Committee not to sit on 29.12.2023. Copy of Boarding Pass is also submitted by the petitioner in this case to show that on 24.12.2023, she boarded in the flight to go to Kolkata.

[24] Ld. Sr. Counsel Mr. P. Roy Barman, submits that thereafter no date was further shifted. The Committee submitted the report on 11.01.2024 with the findings that charges framed against the petitioner were proved beyond doubt.

[25] The Disciplinary authority i.e. CEO issued the memorandum on 12.01.2024 (Annexure-40) proposing her punishment of termination from service and also asked her to submit representation, if any. She submitted her representation accordingly and the Disciplinary Authority finally issued Memorandum on 29.01.2024(Annexure-42) imposing penalty of termination from service in accordance with the provisions of Sl. 34, 39 and 40 of the list III, under Chapter V of the Service Conduct Rules, 2019 of the Society for Tripura Medical College & Dr. BRAM Teaching Hospital.

[26] In view of above, according to Ld. Sr. Counsel, Mr. Roy Barman, the petitioner was compelled to withdraw her writ petition No.WP(C)796 of 2023 on 02.02.2024 with a liberty to file a fresh writ petition. The petitioner thereafter, preferred appeal before the appellate authority i.e. the Chairman of the said Society(TMC) which was dismissed vide order dated 12.07.2024(Annexure-48). Now, challenging the said termination order and also the order of the appellate authority, the present writ petition is filed.

[27] Ld. Sr. Counsel Mr. Roy Barman addresses his argument on the following points:-

i) that, despite leave granted to the petitioner, she was not allowed to adduce evidence on her behalf;

ii) that, despite submission of her representation against the proposed punishment, Disciplinary Authority most illegally, without application of mind, issued the memorandum dated 29.01.2024(Annexure-42), terminating her from service observing that she did not submit any

representation against the proposed punishment. Therefore, according to learned senior counsel, it is apparent that her representation was not taken into consideration by the Disciplinary Authority which caused serious prejudice to the petitioner and it amounts to violation of statutory rights;

iii) that, the Inquiring Committee did not give any finding on facts in true sense rather, they narrated the facts itself and without any reasoning observed that the charges were proved against her;

iv) that, against the articles of charge, no statement of imputation of misconduct were supplied to the petitioner;

v) that, the appellate authority's order was also lacking of any application of mind and reasoning.

vi) that, the CEO himself was the Disciplinary Authority, who was the complainant himself and therefore, there was every likelihood of bias;

vii) that, the Disciplinary Authority proceeded with the inquiry in a hasty manner to the prejudice of the petitioner despite the fact that the previous writ petition bearing No. WP(C) No.796 of 2023 was pending.

viii) that copy of Inquiry Report was not furnished to the petitioner to enable her to give proper representation their against.

[28] Therefore, finally, Ld. Sr. Counsel prays for allowing the writ petition by quashing the termination order.

[29] Learned senior counsel, Mr. Debalay Bhattacharya for the respondents submits that actually no station leave permission was granted to the petitioner and the Presenting Officer also vehemently objected to the said prayer submitting that she did neither seek station leave permission nor any such permission was granted to her for leaving the station. According to learned senior counsel, Mr. Bhattacharya, the petitioner was throughout non-cooperating with the Inquiring Committee and was trying to delay the inquiry proceeding by this or that means.

[30] This Court has considered the submissions of learned counsel of both sides and has gone through the relevant materials placed in the record.

[31] It appears that on 16.12.2023, the Presenting Officer was present with four numbers of witnesses and the petitioner was absent and she submitted a petition for adjournment. She at that time already filed one writ petition before the High Court against certain decisions of the Inquiring Committee. On that day, the Committee examined the four witnesses of the prosecution side and fixed the next date very shortly on 19.12.2023 for submission of defence statement by the AO and also to submit list of defence witnesses, if any. On 19.12.2023, the petitioner was absent without taking any step and therefore, on the basis of submission of the Presenting Officer that she was very much available in the station, and also taking note of her previous conduct, the Inquiring Committee closed the chapter of adducing evidence from the side of the petitioner and accordingly, fixed the next date on 26.12.2023 for submission of prosecution argument. Thereafter at that stage, no scope was also further given for hearing the defence side. Thus, it appears that from 19.12.2023 to 26.12.2023 the Inquiring Committee proceeded with the matter in a very hasty manner though earlier on several occasions they granted adjournments very liberally to the petitioner. They even did not fix any date for recording evidence of defence side.

[32] In view of above, it appears to the Court that the Inquiring Committee at least ought to have given a reasonable scope to the petitioner to adduce her evidence, if any, and also to participate in the hearing thereafter in accordance with the Rules.

[33] It also appears that a specific plea was taken by the petitioner by her letter dated 23.12.2023 to the Inquiring Committee that she was granted leave with station leave permission w.e.f. 26.12.2023 to 30.12.2023. The Inquiring Committee in their order dated 26.12.2023 noted an oral objection raised by the Presenting Officer in this regard that no such permission was granted to her but did not further enquire or decide the said matter whether she was at all granted station leave permission or not, rather, unilaterally believed the oral submission of the Presenting Officer that she was very much available in the station. On the other hand, from the side of

the petitioner, copy of one boarding pass has been submitted to show that on 24.12.2023 she had already left for Kolkata by IndiGo Airways at 11:00 hours.

[34] In view of above said position of record, the order of the Committee passed on 26.12.2023 appears to be unreasonable and arbitrary. Such conduct of the said Committee has also violated the principles of natural justice for depriving her from adducing evidence and also from participating in the hearing thereafter.

[35] Learned senior counsel, Mr. Roy Barman, though submits that a scope may be given to the petitioner to cross-examine the witnesses of the prosecution but, record shows that already sufficient opportunities were given to the petitioner earlier to participate in the phase of recording of evidence of the prosecution side and nothing is found that the Inquiring Committee exercised their discretion arbitrarily. Therefore, such submission is not accepted.

[36] In view of above, the final decision of the Inquiring Committee and consequently the decision of Departmental Authority dated 29th January, 2024 and 12th July, 2024 [Annexure 42 & 48 to the writ petition] respectively are hereby quashed. The Inquiring Committee is directed to fix a date afresh for adducing evidence by the writ petitioner and finally take a reasoned decision in this regard giving a reasonable opportunity to the petitioner of being heard. The Inquiring Committee shall try to complete the enquiry within two months from the date of receipt of a copy of this order.

[37] With the aforesaid observations and directions, the instant writ petition stands disposed of. Pending application(s), if any, shall also stand disposed.

JUDGE