

**Circuit Bench of Calcutta High Court
at Jalpaiguri**

⁷¹
sm 20.08.
2019

W.P.A. 260 of 2019

**Sailesh Chandra Barman.
Versus
The Union of India & Ors.**

Mr. Hillol Saha Podder.
.....for the petitioner.

Mr. Rajdeep Biswas.
.....for the respondent no.1

The affidavit of service filed in Court today be kept on record.

It appears that all the respondents, barring the respondent no.9, were properly served. Since the respondent no.10, who is the husband of respondent no.9, was served at one of his addresses, it is deemed that respondent no.10 represents the interest of the respondent no.9 as far as service is concerned and service is treated to be complete against all the respondents.

The nature of the present grievance is that the Bandhan Bank, which is arrayed as respondent no.4 herein, committed a violation of natural justice, in particular the principle of *Audi Alteram Partem*, in not giving proper hearing to the petitioner prior to dismissing the petitioner from his employment with the said bank on the charge of sexual harassment, which the petitioner categorically denies. It is argued on behalf of the petitioner that the petitioner has

made several representations before various authorities but there is no alternative forum to ventilate the grievance of the petitioner than this court.

Learned counsel appearing for the respondent no.1 submits that the present writ petition is not maintainable, since the Bandhan Bank is a private entity and since the nature of dispute involved herein does not call for any interference under Article 226 of the Constitution of India.

In reply, learned counsel for the petitioner argues that the right to life and livelihood of the petitioner has been violated and as such the petitioner is entitled to ventilate such violation of fundamental rights before the Writ Court, despite the Bandhan Bank being a private entity. It is further submitted that the said bank has been discharging the functions of the State in the economy and as such, comes within the purview of Article 226 of the Constitution of India. Learned counsel for the petitioner also cites a judgment of the Supreme Court dated February 14, 2019 passed in Civil Appeal No.9166 of 2013 for the proposition that, even in case of a private entity, a writ petition can be maintainable under certain circumstances.

However, in the present case, the nature of the dispute involved is purely of a private nature and

apparently involves of a contract of personal service, prima facie attracting the bar envisaged in Section 14 of the Specific Relief Act, 1963.

Moreover, as distinguished from the cited judgment, the Bandhan Bank, against whom the primary grievance of the petitioner lies, is neither a government entity nor the 'State' in any manner, thus not falling under Article 12 of the Constitution. As far as the alleged violation of the fundamental rights of the petitioner is concerned, the present case is squarely a private dispute subject to evidence to be adduced by both sides for establishing their respective cases and pertains to a contract of personal service. Only in the event the petitioner can overcome the bar of Section 14 of the Specific Relief Act by showing that the bank violated principles of natural justice or any statute, could a civil suit be entertained with regard to the present dispute. However, the remedy of the petitioner otherwise lies before a civil court, subject to the restrictions indicated above.

Accordingly, WPA 260 of 2019 is disposed of by granting the petitioner an opportunity to approach the Civil Court with the grievance ventilated in the present writ petition, subject to the decision arrived at by the Civil Court with regard to maintainability and merits of such suit, if filed.

It is made clear that the observations made

herein were only for the purpose of deciding the present writ petition and the merits of the grievance of the petitioner have not been touched in any manner. Accordingly, any future forum which the petitioner may approach with the present grievance would not be swayed, on the merits of the case, by any of the observations made by this Court.

Urgent photostat certified copy of this order, if applied for, shall be given to the parties upon compliance of usual formalities.

(Sabyasachi Bhattacharyya, J.)