

06.04.2021.
Item no. 318.
Court No.13
pk

**W.P.A. No. 6487 of 2021
(Through Video Conference)**

**Sanjib Bera
Versus
The State of West Bengal & Ors.**

Mr. Soumen Kumar Dutta,
Mr. Subhadeep Chatterjee,
Mr. Subham Dutta

...for the petitioner.

Mr. Arjun Roy Mukherjee,
Mr. Joydeep Acharya

...for the State.

The writ petitioner was engaged as Village Level Entrepreneur for data entry and other jobs under the MGNREGA at the Amtalia Gram Panchayet on contractual basis.

In the year 2019 a criminal case came to be lodged against the petitioner being G. R. Case No. 1208 of 2019 inter alia under Section 409 of the IPC. The charge against the petitioner was that he has misappropriated funds about Rs. 5,26,78,400/- out of the aforesaid MGNREGA funds, inter alia, by converting the job cards of 37 persons. His engagement however continued until May 2019.

The petitioner submits that he had obtained bail in the said criminal proceedings, inter alia, depositing misappropriated sum of Rs. 5,29,000/- and odd. He submits that the State is bound to continue to engage

him as Village Level Entrepreneur. He relies upon a circular issued by the Panchayat and Rural Development Department, Government of West Bengal dated 29.09.2014 and submits that procedure laid down for termination of petitioner's contract has not been followed.

The petitioner also prays for an order directing re-engagement as Village Level Entrepreneur under the contract.

Counsel for the State relies upon a circular of the Finance Department which the petitioner claims being No. 9008-F(P), dated 16.09.2011. He places Clause-11 thereof which, inter alia, stipulates that in the event any casual, daily rated or contractual labourer is found involved in any criminal proceedings, his service may be terminated.

Having considered the arguments of the petitioner and the respondents, this Court is of the view that the petitioner cannot be permitted to sail in two boats. The petitioner cannot claim the benefits of the circular dated 29.09.2014 (supra) and the memorandum dated 16.09.2011 at the same time. The said proposition also applies equally to the State.

Since the process of termination of the petitioner's engagement is required to be guided by the memorandum dated 29.09.2014, the respondent no. 6 shall take steps in accordance with Clauses- 1 to 6 of the circular dated 29.09.2014 within a period of 4

months from the date of communication of a copy of this order. The petitioner need not be as Village Level Entrepreneur until a final decision arrived at, as indicated hereinabove.

With the aforesaid observations and directions, the instant writ petition is disposed of.

There shall be no order as to costs.

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

(*Rajasekhar Mantha, J.*)