

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 6848 of 2021

Shri Krishnendu Chatterjee
Vs.
The State of West Bengal & Ors.

Mr. Debashis Saha,
Ms. Namrata Chatterjee
.... For the petitioner.

Mr. Soumya Majumder,
Mr. Ranajit Talukdar,
Mr. Victor Chatterjee
... For WBEIDCL.

The petitioner has been served with a charge sheet on 16th December, 2019. The main allegation is that the petitioner acted in a manner detrimental to the interest of his employer, West Bengal Electronics Industry Development Corporation Limited (in short, WBEIDCL) in respect of a land measuring about 332 acres in District – North 24 Parganas, for setting up IT Hub. It is also stated that on scrutiny of documents it appears that 2.39 acres of land have been purchased in the name of WBEIDCL from persons who are not the owners of the said land. WBEIDCL further urged that the petitioner has accepted monetary consideration for such wrongful and illegal purchase of land. On the basis of such allegations three charges have been framed as against the petitioner as enumerated in serial no. a, b and c of the charge sheet dated 16th

December, 2019.

The petitioner alleges that the charges are vague. The petitioner had asked for certain particulars and documents vide his letter dated 28th September, 2021, enumerated in serial no. a to f therein. WBEIDCL has responded to such letter by filing a response which has along with the petitioner's letter been taken on record. It appears from the response of WBEIDCL that so far as the serial no. a is concerned, they have said that the same is subject matter of enquiry. So far as the serial nos. b, c and d are concerned, WBEIDCL has said that the petitioner can take inspection thereof. So far as the serial no. e is concerned, the response of WBEIDCL is that the particulars and documents sought for are vague and subject to evidence in enquiry. With regard to serial no. f, it is said that the same is subject to evidence in enquiry.

It is a consistent view that the Courts are loath in interfering at the charge sheet stage, as the charges levelled against an employee/ex-employee are required to be proved in the disciplinary proceedings either before the Enquiry Officer or before the Disciplinary Authority. The Presenting Officer on behalf of the employer is required to substantiate charges with due and proper evidence. It is also settled position that Courts should not assist any of the parties to the

litigation in collecting evidence. In the event, the employer, being WBEIDCL, in the instant case, is unable to substantiate the charges by the documents which are in their possession but have not been made over to the petitioner, then adverse presumption is likely to be drawn against WBEIDCL and in favour of the petitioner.

Considering the letter dated 28th September, 2021 and the response from WBEIDCL, I find that there is no scope for any interference to the initiation of the disciplinary proceedings by serving a charge sheet dated 16th December, 2019. So far as the inspection is concerned, WBEIDCL shall inform the petitioner convenient dates within the working hours in any working day or days to give inspection of the documents in serial nos. b, c and d of the petitioner's letter dated 28th September, 2021, preferably within a period of two weeks from date but prior to any further progress in the enquiry proceedings. No further notice be given to WBEIDCL since they are represented.

With regard to other documents and particulars as in serial nos. a, e and f, being presented before the Enquiry Officer shall be free to take up such plea in respect thereof before the Enquiry Officer or Disciplinary Authority once the comments on the enquiry report is sought for by the Disciplinary

Authority from the petitioner by supplying a copy of the enquiry report to him. It is made clear that copy of any document relied upon by the Presenting Officer before the Enquiry Officer should be supplied to the petitioner prior to the same being tendered and the petitioner shall be afforded opportunity to cross examine the witness of WBEIDCL in the enquiry proceeding.

It is expected that the disciplinary proceedings shall be concluded as expeditiously as possible, as the petitioner is under suspension. The petitioner as also WBEIDCL shall cooperate in bringing the disciplinary proceedings to a logical conclusion at the earliest.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavit, allegations made in the writ petition are deemed to have not been admitted.

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

(Arindam Mukherjee, J.)