

22.01.2021
SL No.25
Court No.24
(P.M.)

WPA 11396 of 2020

Md. Mustafa Khan
Vs.
The Rishra Municipality & Ors.

Mr. Ranmoy Chowdhury
Ms. Ritoprita Ghosh
... for the petitioner

Mr. Rajendra Chaturvedi
... for Municipality.

The petitioner is a permanent employee of the Rishra Municipality. He was arrested in connection with a police case on 1st August, 2019 and he remained in custody for fourteen days. After being enlarged on bail on 14th August, 2019 the petitioner came to learn that a notice was affixed in the wall of his house bearing Nos. 765/VI dated 2nd August, 2019 issued by the Chairman of the Rishra Municipality wherein he has been directed to show cause as to why appropriate disciplinary proceeding will not be taken against him. The reply was to be made within 48 hours from the date of receipt of the letter. The petitioner was also placed under suspension with immediate effect.

The petitioner replied to the aforesaid show cause by letter dated 20th August, 2019 and forwarded the same to the Chairman of the Municipality through speed post. The postal envelope was returned to the petitioner unserved with the remark 'refused'.

The petitioner thereafter received a copy of the communication dated 5th August, 2019 bearing reference No. 769/VI issued by the Chairman of the Municipality again asking the petitioner to show cause as to why an appropriate disciplinary proceeding would not be taken against him, and he was again placed under suspension with immediate effect. The petitioner replied to the said show cause by his letter dated 23rd August, 2019 and forwarded the same to the Chairman of the Municipality through post. The postal envelope once again was returned with the endorsement 'refused'.

The petitioner alleges that thereafter the petitioner made a representation on 21st December, 2019 with a reminder on 3rd March, 2020 praying for revocation/cancellation of the order of suspension and for permission to join duty and for payment of arrear allowances.

The aforesaid representations were also returned with the endorsement 'refused'.

According to the petitioner, the Municipality ought not to keep him under suspension for an indefinite period of time.

The learned advocate representing the Rishra Municipality submits that the Chairman does not have knowledge as to how and why the aforesaid postal envelopes were refused.

The learned advocate further submits that necessary steps shall be taken pursuant to the representation that has been filed by the petitioner.

It is settled law that an order of suspension ought not to continue for an indefinite period of time.

In the instant case, the first order of suspension was issued on 2nd August, 2019 followed by another order of suspension dated 5th August, 2019. The replies to the show cause that were submitted by the petitioner in response to the show cause notices issued to him were also not received by the Municipality.

In view of the above, the instant writ petition is disposed of by directing the Rishra Municipality to take necessary steps, strictly in accordance with law, to deal with the representation that has been filed by the petitioner in reply to the show cause and the letter of suspension that was issued in his favour.

The Municipality shall take steps within a period of four weeks from the date of communication of a copy of this order.

The Municipality shall afford an opportunity of hearing to the petitioner and pass a reasoned order in the matter within the time as stated herein above.

The Municipality shall ensure that the suspension allowances that are receivable by the petitioner are cleared at the earliest.

WPA 11396 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)