

08.04.2022
Sl. No.44
(sb)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 3352 of 2021

Faruk Saikh
Vs.
The State of West Bengal & Ors.

Mr. Shamit Sanyal,
Ms. Priyakshi Banerjee,

....for the petitioner.

Mr. Arjun Ray Mukherjee,
Mr. Joyjeev Medhi

.... for the respondents.

Affidavit of service filed in Court today is taken on record. The petitioner while working as a Civic Volunteer under Krishnagar Police Station, District – Nadia, was implicated in a criminal case, being Women Police Station Krishnagar Case No.112/17 dated 22nd July, 2017 and was charged with offences under Sections 363/365 and 120B of Indian Penal Code, 1860. Charge sheet has been filed in aforesaid case. The petitioner says that the complaint made against the petitioner after investigation was rejected by the Court by an order dated 27th March, 2018. The petitioner says that the petitioner was without any show-cause, restrained from joining the duties. There was no truth in the complaint against the petitioner which according to the petitioner is proved. Despite the complaint being rejected the petitioner has not been

allowed to join the duties. The petitioner challenges such action on the part of the respondents. On behalf of the respondents it is submitted that the petitioner stopped attending his duty since the registration of the case, being Women Police Station Krishnagar Case No.112/17 dated 22nd July, 2017 and such the allegation that the petitioner was not allowed to join the duties is absolutely false.

The fact remains that a Civic Volunteer, on a contractual engagement which is also on temporary basis like the petitioner, cannot question the action on being demobilized when he was admittedly an accused in a criminal case. The employer on an employee being implicated in a criminal case is likely to lose confidence in him. Even without going into the veracity of the allegation that the petitioner was not allowed to join or into the counter allegation that the petitioner stopped coming to his duties it can be said that nature of engagement does not allow for giving the petitioner a show-cause or a hearing before demobilizing him. There is neither any rules nor is the employer under any obligation to give the petitioner to give the petitioner a show-cause or hearing. The petitioner's representation made on 20th August, 2018 before the Superintendent of Police, Nadia also does not warrant any consideration. Relying upon the findings arrived

at by a Full Bench of this Court in the decision reported in (2015) 2 CHN 461 (Tanmay Ghosh & Ors. v. State of West Bengal & Ors.), it can also be held that the petitioner is not holding a civil post. As a Civic Volunteer the petitioner though can file a writ petition before this Court to ventilate his grievances as held in Tanmay Ghosh (supra), but in the instant case, the petitioner is unable to demonstrate infringement of any right guaranteed under Part-III of the Constitution of India as envisaged under Article 226(1) of the Constitution of India. The petitioner is also unable to show any act of his employer which allows him to maintain a writ “for any other purpose” as provided in Article 226(1) of the Constitution of India.

The writ petition is accordingly dismissed without any order as to costs.

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

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

(Arindam Mukherjee, J.)