

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4563 of 2022

Anil Pramanik
Vs.
The State of West Bengal & Ors.

Mr. Avishek Prasad
Ms. Ankita Dey
... For the petitioner

Mr. Ram Chandra Guchhait, led by
Mr. Partha Pratim Roy
... For the State

An affidavit of service and a notice filed in Court today are taken on record.

The petitioner claims to have been enrolled as a member of the West Bengal National Volunteer Force (in short “WBNVF”) on 24th September, 2012 under the West Bengal National Volunteer Force Act, 1949 (as amended) read with Rule 9(5) of the West Bengal National Volunteer Force Rules framed thereunder. The petitioner was posted at Jhargram, then a part of District – Paschim Medinipur. The petitioner was implicated in a criminal case, being Belpahari Police Station Case No.45 of 2019 dated 31st December, 2019 corresponding to G.R. Case No.3 of 2020 under Sections 448/376/506 of the Indian Penal Code (in short “IPC”). The petitioner was arrested in connection with such criminal case and was subsequently enlarged on bail on 5th February, 2020 by the learned Sessions Judge,

Jhargram. The petitioner says that for reasons unknown to him, the petitioner was not permitted to work. The petitioner further says that without either suspending or discharging or dismissing or removing the petitioner from his office, the petitioner cannot be prevented from functioning. The petitioner, therefor, seeks cancellation of memo dated 13th May, 2020 and permitted the petitioner to rejoin his duty.

On behalf of the State, it is submitted that the petitioner was found to be absent at the Police Lines at Jhargram from 5th October, 2017. The petitioner was directed to report to Jhargram District on 16th November, 2017 but he did not turn up. On 31st December, 2019, the petitioner was implicated in a criminal case with serious charges as under Section 376 of IPC. In the criminal case, a charge sheet has also been filed as against the petitioner after the Investigating Officer (in short "IO") being prima facie satisfied with the charges levelled against him. The petitioner on having not joined his duties for a long time and in view of the criminal proceedings have been demobilised.

After hearing the parties and considering the materials on record, I find that the petitioner, being a WBNVF, is considered to be a public servant in terms of the provisions of Section 21 of the IPC as per the provisions of Section 14 of the West Bengal National Volunteer Force Act, 1949. Being a public servant, if the petitioner is

charged with serious offences, the employer is likely to lose confidence on the petitioner. As a result whereof, the petitioner can be demobilised by the respondents. The petitioner on being admittedly arrested remained in custody for over 48 hours and, as such, there was an automatic suspension for which the petitioner is not required to be specifically suspended. That apart and in any event, when a criminal case with serious charges are pending against the petitioner, the petitioner, if permitted to work, may, by using his rights as being engaged as WBNVF, threaten the witnesses and tamper with the evidence.

Considering all these aspects, I am of the view that the petitioner has been rightly demobilised and, as such, there is no question of directing the respondents to review or revisit their decision.

The writ petition is devoid of merit and the same is accordingly dismissed, however, 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.)