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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**W.P.A 232 of 2022
(Via Video Conference)**

**Jayanta Kumar Pathak
-versus
Union of India & Ors.**

**Mr. Deborshi Dhar.
...For the Petitioner.**

**Mr. Sudipto Kumar Majumder,
Mr. Ajoy Kumar Singhania.
...For UOI.**

The petitioner is a member of the Sashastra Seema Bal. A disciplinary proceeding was initiated against him under the provisions of the Sashastra Seema Bal Act, 2007 under Sections 34B and Section 49 of the said Act.

The petitioner challenged the same before this Court by filing WPA 232 of 2020. By an order dated 28th January, 2020, the Court was pleased to restrain the respondents from convening the proceeding before the General Force Court for a limited period.

By an order dated 1st October, 2021, the Court was of the view that the proceeding before the General Force Court may be convened and completed but no final order will be passed without the express leave of the Court.

The petitioner is presently aggrieved by a communication dated 22nd October, 2021 whereby the petitioner has been intimated that the General Force Court will assemble for trying the accused and the said convening order was in supersession of the earlier convening order dated 22nd January, 2020.

According to the petitioner, there is a bar to convene any disciplinary proceeding by the General Force Court beyond a period of three years from the date the cause of action arises.

The petitioner has already approached the Presiding Officer of the General Force Court by filing application under SSB Rule 77 and alleges that his prayer has been rejected.

The petitioner prays for a direction upon the respondent authorities to set aside and cancel the Office Order dated 22nd October, 2021 regarding convening fresh proceeding by the General Force Court in supersession of the earlier convening order dated 22nd January, 2020.

Learned advocate representing the respondents submits that there is no change in the earlier convening order and the present convening order. As the Court permitted the authority to convene the proceeding after lifting the order of stay, accordingly, the term “this supersedes the convening order dated 22.01.2020” has been used. It has been submitted that the officers who were convening the earlier proceeding has changed in the meantime and fresh officers are required to be engaged for the purpose of trying the proceeding.

The Court is of the opinion that, since the cause of action arose in the year 2016 and proceeding was convened in the year 2018, accordingly, the respondents will proceed strictly in accordance with the order dated 1st October, 2021 passed by this Court in the pending proceeding being WPA 232 of 2020. It is not necessary that the term “this supersedes the convening order dated 22.01.2020” is required to be used for convening the proceeding afresh. The proceeding at present will merely be in continuation of the charge sheet which has been issued in favour of the petitioner earlier.

As the proceeding has been directed to be convened by the order of the Court dated 1st October, 2021, the respondents will proceed to convene and conclude the proceeding in accordance with the order of the Court and no final order be passed without the express leave of this Court.

The petitioner is directed to cooperate with the respondents for the purpose of quick disposal of the proceeding before the General Force Court.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)