

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak**  
And  
**The Hon'ble Justice Md. Shabbar Rashidi**

**WP.ST 96 of 2023**

**Noor Mohammad  
Vs.  
The State of West Bengal & Ors.**

For the Petitioner : Mr. Kallol Basu,  
Mr. Suman Banerjee, Advocates

For the State : Mr. Somnath Ganguli, AGP  
Mr. Rajaram Banerjee, Advocates

*Heard & Judgment on : July 5, 2023*

**DEBANGSU BASAK, J.**

1. The writ petition is directed against an order dated May 8, 2023 passed in OA No. 636 of 2022.
2. By the impugned order, the tribunal did not allow the prayers for interim relief. Tribunal fixed the Original Application for hearing on August 9, 2023. The tribunal allowed the contesting parties to file their responses.

3. Learned advocate appearing for the writ petitioner points out the factual matrix of the case. He submits that, the writ petitioner was being wrongfully proceeded against in a disciplinary proceeding. Relevant documents in the disciplinary proceeding were not made over to the writ petitioner. The writ petitioner approached the High Court. High Court passed an order. Thereafter, the writ petitioner approached the tribunal.

4. Learned advocate for the writ petitioner relies upon **(1998) 6 SCC 651 [State of U.P vs. Shatrughan Lal & Anr.]** and **(2011) 4 SCC 589 [Union of India & Ors. Vs. S. K. Kapoor]** and submits that supply of documents relied upon in the charge sheet is essential. In absence of such documents not being supplied, the departmental proceeding stands vitiated.

5. The respondent authorities are represented.

6. We perused the contents of the Original Application which is annexed to the writ petition.

7. The main relief sought for in the Original Application is as follows :-

*"(a) An order be passed directing the respondent authorities concerned to withdraw, cancel and/or rescind the impugned punishment order being No. 1951-A&P/4A-06/2012 dated 19.07.2022 issued by the Land Reforms Commissioner and Additional Chief Secretary to the Government of West Bengal whereby and whereunder a punishment of reduction of pay to two stages lower in current pay band for a period of two years including debarring of promotion for such period;*

*(b) An order be passed directing the respondent authorities concerned to forthwith drop the charge sheet issued vide Memo No. 965-A&P/4A-06/12 dated 24.02.2014 as well as the disciplinary proceeding;*

*(c) An order be passed directing the respondent authorities concerned to forthwith release the arrear salaries which is due after re-fixation of the salary of the applicant in terms of the Memo No.166-A&P/4A-06/12(Pt.I) dated 25.01.2022."*

8. The interim relief sought therein is as follows :-

*"i. Interim order restraining the respondent authorities concerned from giving effect to and/or any further effect to and /or taking any action and/or any further action in terms of punishment order being No. 1951-A&P/4A-06/2012 dated 19.07.2022 issued by the Land Reforms Commissioner and Additional Chief Secretary to the Government of West Bengal whereby and whereunder a punishment of reduction of pay to two stages lower in current pay band for a period of two years including debarring of promotion for such period."*

9. The writ petitioner applied for interim relief before the tribunal. As will appear from the contents of the Original Application, the writ petitioner is also seeking a direction of dropping the charge sheet dated February 24, 2014. These are his main reliefs in the Original Application. The interim relief sought for is stay of the order of punishment dated July 19, 2022.

10. The order of punishment dated July 19, 2022 imposes a punishment of reduction of pay to two stages lower in current pay band for a period of two years including debarring of promotion for such period.

11. It is the contention of the writ petitioner that unless the impugned order of punishment is stayed, the writ petitioner will not be considered for promotion. His promotional aspiration will stand affected. That will be prejudicial to the writ petitioner.

12. The main issue as to whether, the punishment imposed was done in accordance with law or not, is yet to be decided.

13. The learned tribunal returned a finding that, at the stage of interim without allowing responses from the respondents, interim order need not be granted. The issue raised in the Original Application as noted above is

a mixed issue of fact and law. The factual aspect as to whether all relevant documents were made available to the writ petitioner needs to be decided after affording the respondents an opportunity to file their response. The view taken by the tribunal while considering a prayer for interim relief is a plausible one. The writ petitioner is unlikely to be prejudiced since, the date of the impugned order is May 8, 2023 and the matter was fixed before the tribunal on August 9, 2023. Nothing is placed on record to suggest that the authorities are in the process of promoting any persons in the interregnum.

**14. Shatrughan Lal (supra) and S. K. Kapoor (supra)** were rendered in situation of final hearing of proceedings where, on appraisal of the facts, a decision was taken with regard to non-supply of documents. As to the issue whether or not relevant documents were supplied to the writ petitioner is yet to be decided upon.

15. In such circumstances, we find no merit in the present writ petition.

16. WP.ST 96 of 2023 is dismissed without any order as to costs.

17. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

**(Debangsu Basak, J.)**

**18. I agree**

**(Md. Shabbar Rashidi, J.)**