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17.10.2023
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 22565 of 2023

**Bijoy Kumar Moni
-versus
The State of West Bengal & Ors.**

**Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Supratim Dhar,
Mr. Prasenjit Mukherjee,
Mr. Raju Bhattacharyya,
Mr. Kunal Ganguly,
Mr. Tirupati Mukherjee.
...For the Petitioner.**

**Mr. Ramkrishna Bhattacharya,
Mr. K. Choudhury.
...For the Respondent
Nos.4 to 8.**

**Mr. Santanu Mitra,
Ms. Rama Haldar.
...For the State.**

The petitioner is aggrieved by the order of suspension dated 4th September, 2023 passed by the Chairman, Raghunathpur Municipality.

It appears that the said order of suspension was passed upon hearing the petitioner in connection with the show cause notice issued to him. The reply to the show cause filed by the petitioner was duly considered.

The impugned communication is the sum and substance of the decision arrived at and the reasoning and the explanation of the Municipality to arrive at the

said decision is reflected in the Memo being No. RM/X-24/789 dated 4th September, 2023.

The impugned order of suspension mentions that the Municipality has come to a conclusion that the petitioner has committed misconduct by misleading his designation and also acted in a fraudulent and fictitious manner in the implementation of solid waste management due to which financial loss has been caused to the Municipality. The Municipality is contemplating disciplinary action against him.

According to the petitioner, as the reasoning relying upon which the order of suspension was passed is not intimated, accordingly, the petitioner is unable to understand as to why the order of suspension was passed.

The petitioner harps upon the point that the order of suspension was passed not in conformity with the direction passed by the Court. The order of suspension was passed in hot haste.

Prayer has been made for setting aside the suspension order.

Learned advocate appearing for the Municipality has produced the Memo No.RM/X-24/789 dated 4th September, 2023.

It appears that the same is a detailed one with reasons mentioned. There are several allegations against the petitioner including financial misconduct. The Municipality intends to initiate disciplinary proceeding against the petitioner.

The order of suspension is a very preliminary stage. The memorandum and the article of charges which may be issued to the petitioner will certainly contain the details. As of now there is no requirement of interfering with the order of suspension.

It will be open for the Municipality to take steps in accordance with law against the petitioner.

As regards the uploading of information in the Facebook, learned advocate appearing for the Municipality has categorically submitted before the Court that the Municipality was not responsible for uploading the details. The Municipality is not even aware as to the person who uploaded the details of the petitioner in the social media.

As the learned advocate appearing for the Municipality submits, upon instructions that, the Municipality is not responsible for uploading the personal details of the petitioner, accordingly, it will be open for the petitioner to approach the police by lodging complaint. In the event a complaint is lodged, the same shall be enquired and necessary steps taken.

Learned senior advocate appearing for the petitioner expresses reservation with regard to the language mentioned in the order of suspension.

It has been submitted that the language implies that the employer has already made up its mind with regard to the charges that may be framed against the petitioner. The line in the order of suspension mentions that "this deserves to be inquired in depth and appropriate disciplinary action needs to be taken

against Sri Bijoy Kumar Moni, Sub-Assistant/Engineer-in-charge”.

In the opinion of the Court, the said language merely implies that a disciplinary proceeding against the petitioner is contemplated. The same cannot be taken to be the final finding against the petitioner.

The order of suspension is one of the preliminary steps of a disciplinary proceeding. There is no finality attached to the same.

Accordingly, the submission that the said finding lends a character of finality cannot be accepted. The same is absolutely a tentative finding and is not a final one.

No further relief can be granted to the petitioner in the instant case.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)