

01 16.04
Ct .2024
No24
AGM

**In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 15866 of 2022

**Md. Mahafujur Rahaman
Vs
State of West Bengal & Ors.**

**Mr. Gangadhar Das.
Mr. Tanmoy Chattopadhyay.
... For the petitioner.**

**Mr. Jahar Lal De.
Mr. Rudranil De.
... for the State.**

Learned advocate representing the petitioner relies upon the guidelines published by the Panchayats & Rural Development Department vide Memo No. 4595-PN/O/I/35-19/14 dated 29th September, 2024 with regard to termination/continuation of contract of all contractually engaged personnel under the MGNREGA.

It has been submitted that the petitioner has not been granted any opportunity to place documents in his defense. Opportunity was also not granted to the petitioner to cross-examine the persons who deposed against him.

In the instant case, it appears that the District Magistrate decided the issue in compliance of the direction passed by the Court. It is, however, true that the petitioner did not have any opportunity to cross-examine the persons who deposed against him. The consideration was more in the nature of a summary trial.

The District Magistrate, relying upon the submission made on behalf of the Block Development Officer and the Panchayat Authorities, decided the issue

against the petitioner and the service of the petitioner stood terminated as the District Magistrate found that the petitioner was responsible for defalcation of funds.

It appears from the submission made on behalf of the parties that there are several factual issues, which were not taken into consideration by the District Magistrate. The District Magistrate solely relied upon the submission made by the Block Development Officer.

The Court is of the opinion that along with the petitioner, involvement of the Block Development Officer and the Gram Panchayat cannot be entirely ruled out in the issue of defalcation of funds. There ought to have been proper checks and balances so that the fund could not have been diverted only by the involvement of a single person serving as the VLE of the Gram Panchayat. Had all the necessary precautions been taken care of, then a single person would not have been able to divert the Government fund in his personal account.

It is not absolutely improbable or impossible that after being caught in the act of defalcation, the petitioner thought it fit to refund the amount. The amount is yet to be refunded. The principal amount along with interest shall immediately be refunded in the account of the SBM (G)- Fund of Executive Officer, Ratua-I Panchayat Samity and Block Development Officer, Ratua-I Development Block.

The Block Development Officer shall take steps to disburse the amount deposited by the petitioner in favour of the eligible beneficiaries.

As the petitioner has already been terminated from service, let the same not stand in his way of future engagement provided that he participates in regular selection process and is successful in the same.

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.)