

Form No. J(2)
Daily List Item No. 8
Court No. 2
b.r.

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present:-
The Hon'ble Justice Aniruddha Roy

WPA 2728 of 2025

Amit Patra

-vs-

The State of West Bengal & Ors.

For the petitioner : **Mr. Debasish Banerjee**
Mr. Rakesh Jana

For the State : **Mr. Tapan Kumar Mukherjee,**
Ld. AGP
: **Ms. Sangeeta Roy**

Heard On : **28.10.2025**

Judgement on : **28.10.2025**

Aniruddha Roy, J. :

1. Affidavit of service filed in Court today, is taken on record.
2. The petitioner is a contractual employee. By virtue of a notice of suspension dated **April 4, 2024, annexure p-9 at page-38** to the writ petition, the petitioner is under suspension. The notice of suspension *prima facie* shows

an allegation of misappropriation of funds from the account of Block Health Samiti. An FIR was also registered with alleged charges **under Sections 420/406 of the Indian Penal Code**. The date of FIR is **January 31, 2023**. The FIR was also registered in connection with the contractual employment of the petitioner.

3. Mr. Debasish Banerjee, learned counsel appearing for the petitioner submits that the FIR was taken into challenge by way of an application filed under **Section 482 of the Criminal Procedure Code** when a Co-ordinate Bench by its order dated **October 30, 2024** passed in **CRR 4685 of 2024** has stayed the operation of the said FIR until disposal of the application and the said criminal revisional application is still pending.
4. Mr. Banerjee further submits that the law is well settled that disciplinary proceeding and the criminal proceeding are two different proceedings by nature and law. Once the suspension has taken place, the petitioner must receive the suspension allowance. The petitioner has already made representations before the authority/employer and the same have not yet been considered.

5. Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader appearing for the State submits the allegation for misappropriation of fund against the petitioner, who is a contractual employee, is to the tune of rupees more than **28 lacs**. He further submits that there is no provision under any Rule that a disciplinary proceeding has to be initiated against the contractual employee. Accordingly, Mr. Mukherjee submits this Court in exercise of its power under Article 226 of the Constitution of India shall not interfere with the suspension of the petitioner.
6. Considering the rival submissions of the parties and upon perusal of the materials on record, this Court is of the firm view that in case of a contractual employment unless the contract of employment or the Rules specifically provides for there is requirement of initiating any disciplinary proceeding, the employer can straight way suspend contractual employer.
7. Inasmuch, as the criminal revisional application is pending in which the criminal proceeding already registered against the petitioner has been stayed but if ultimately the criminal revisional application does not succeed, the FIR

along with the said criminal proceeding will revive and the regular trial will follow.

8. In addition, in case of suspension of a contractual employee unless the contract for appointment specifies otherwise and specifically provides for, there is no question of paying suspension allowance. The contractual employment is governed under the terms of the particular contract of appointment.
9. In view of the foregoing reasons and discussions, this Court finds no extraordinary case has been made out, so that this Court needs to interfere with the impugned suspension order **dated April 4, 2024**, at this stage.
10. However, depending upon the final result of the criminal revisional application and if the petitioner succeeds therein, the petitioner then shall be at liberty to take steps with regard to its suspension under the said impugned suspension notice, in accordance with law.
11. It is made clear that this Court has not expressed any opinion on the alleged charges leveled against the petitioner under the said suspension notice and on the merit thereof.

12. Since affidavits are not called for, the allegations made in this instant writ petition are deemed not to have been admitted by the respondents.
13. With the above observations and directions, this writ petition, **WPA 2728 of 2025** stands **disposed of**, without any order as to costs.
14. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)