

02. 28.07.2025  
Court No.8  
(Tanmoy)

**FMA/1237/2021  
IA NO: CAN/2/2021**

**BANGIYA GRAMIN VIKASH  
BANK (BGVB) & ORS.  
VS**

**SRI SUDIP MANDAL & ANR.**

Mr. Ajit Kumar Mishra  
Mr. Jyotirmoy Jha

...for the appellants.

Mr. Arya Bhattacharyya  
Ms. Sreetama Biswas

...for the respondent no.1/  
writ petitioner.

**1.** Mr. Mishra, learned Counsel for the appellants and Mr. Bhattacharyya, learned Counsel for the respondent no.1/writ petitioner are present.

**2.** With the consent of the parties, the appeal and the connected application are taken up together and are finally heard.

**3.** Learned Counsel for the appellant/Bank submits that as per the Bangiya Gramin Vikash Bank (Officers and Employees) Service Regulations, 2010, the writ petitioner's services were terminated by the General Manager, who is the Competent Disciplinary Authority for inflicting such punishment against a Scale-I Officer. The learned Single Judge has assigned the following

reason for interference in the impugned order of punishment:

*“The order removing the petitioner from service appears to have been passed by an authority subordinate to the appointing authority. The same is impermissible.”*

**4.** Learned Counsel for the appellants advance singular contention and submits that the learned Single Judge appears to have drawn analogy from Article 311 of the Constitution of India and, therefore, came to hold that the removal of the writ petitioner by an Authority inferior to the appointing Authority is bad in law. However, the learned Single Judge has failed to consider the aspect whether Article 311 of the Constitution of India can be pressed into service for a Bangiya Gramin Vikash Bank employee who was not a civil post holder. Thus, the impugned order may be set aside and the writ petition may be restored to its original file and number.

**5.** Learned Counsel for the other side supported the impugned order but could not point out anything from the impugned order which throws light about any discussion regarding applicability of Article 311 of the Constitution of India in relation to an Officer of Bangiya Gramin Vikash Bank.

**6.** Thus, we find substance in the argument of learned Counsel for the appellant/Bank that the question of competence of the Disciplinary Authority needs to be looked into in sufficient detail.

**7.** The impugned order dated 12<sup>th</sup> December, 2019 is set aside. The writ petition is restored to its original file and number. It will be open to the parties to raise all possible points while arguing the writ petition, keeping in view the writ petitioner is out of employment from December, 2016. We deem it proper to request the learned Single Judge to take up the matter at the earliest and decide in accordance with law.

**8.** The appeal being FMA/1237/2021 and the connected application being IA No: CAN/2/2021 are accordingly disposed of.

**9.** Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with all requisite formalities.

**(Sujoy Paul, J.)**

**(Smita Das De, J.)**