

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

F.M.A. 241 of 2025

Md. Sohel Hassan

vs.

Mukul Nandi & Ors.

With

CAN 1 of 2023

For the Appellant

: Mr. Subir Sanyal, Sr. Adv.,
Mr. Piyush Chaturvedi, Sr. Adv.,
Mr. Tarun Kumar Das

For the Respondent No. 1

: Mr. Bikash Ranjan Bhattacharyya,
Sr. Adv.,
Ms. Nandini Mitra
Mr. Sakya Maity

For the WBSEDCL

: Mr. S.K. Panja,
Mr. S. Ray

For the State

: Mr. Santanu Kumar Mitra,
Sr. Govt. Adv.,
Mr. Amartya Pal

Heard & Judgment on

: September 4, 2025

Debangsu Basak, J.:-

1. Appeal is at the behest of a private respondent in a writ petition directed against an order dated June 12, 2023 passed in W.P.A. 20733 of 2022.

2. Learned senior advocate appearing for the appellant submits that the appellant is an employee of the West Bengal State Electricity Development Corporation Limited. The writ petitioner is a disgruntled contractor who lodged several baseless complaints against the appellant.
3. Learned senior advocate appearing for the appellant submits that, the learned single Judge initially directed the Chief Vigilance Officer to submit a report. The Chief Vigilance Officer proceeded to prepare a report without hearing the appellant. Chief Vigilance Officer submitted a report which was considered by the learned single Judge.
4. Learned senior advocate appearing for the appellant draws the attention of the Court to the report of the Chief Vigilance Officer. He submits that there are various contradictions in the report of the Chief Vigilance Officer. Therefore, learned single Judge erred in relying upon the report of the Chief Vigilance Officer to direct initiation of departmental proceedings and registration of the complaints of the writ petitioner as the First Information Reports (FIRs).
5. Learned senior advocate appearing for the appellant submits that, the Writ Court should not direct initiation of departmental proceeding. The issue as to whether or not departmental proceeding is required to be initiated is in the domain of the employer. Learned single Judge erred in

issuing such mandatory direction and that too without affording an opportunity to the appellant of hearing.

6. Relying upon **2017 SCC OnLine Cal 21456 (Satpalsa High School and Others vs. Krishna Ram Bhattacharya & Ors.)**, learned senior advocate appearing for the appellant submits that, the learned single Judge erred in issuing the impugned directions without affording the appellant an opportunity to file affidavits.
7. Learned senior advocate appearing for the appellant submits that while the appeal was being heard, the Coordinate Bench framed various issues to be decided at the appeal. In this regard, he draws the attention of the Court to the order dated August 2, 2023. He submits that first issue is whether the Writ Court can issue directions upon the Chief Vigilance Officer to conduct an enquiry and file a report and based on such report issue further direction to transfer the criminal case in which the appellant was shown as an accused to the CID, West Bengal.
8. Learned senior advocate appearing for the appellant submits that second issue is whether the Writ Court can issue a positive direction to the head of the Vigilance and direct commencement of disciplinary proceedings as against the appellant.

9. Learned senior advocate appearing for the appellant submits that the present appeal is maintainable. In support of his contentions, he relies upon the Judgment and order dated July 25, 2025 passed in **M.A.T. 1064 of 2025 (Union of India vs. Raghunath Kumar & Ors.)**.
10. Learned senior advocate appearing for the appellant relies upon **AIR 2000 SC 3469 (Rajnit Prasad vs. U.O.I. & Ors.)** for the proposition that it is the discretion of the employer to initiate a disciplinary proceeding against the employees.
11. State, West Bengal State Electricity Development Corporation Limited, and the writ petitioner are represented.
12. Report submitted on behalf of the State be taken on record.
13. Writ petitioner approached the Writ Court with regard to the police inaction in respect of the complaints lodged by the writ petitioner to the police.
14. From time to time, writ petitioner submitted various complaints to the police. Apparently, all the police complaints were not registered as FIRs. Therefore, the writ petitioner approached the Writ Court.
15. Common thread that transpires in the pleadings as well as the police complaint is that the writ petitioner was working as a Contractor of West Bengal State Electricity Development Corporation Limited (WBSEDCL).

The appellant before us is one of the officials who was monitoring the execution of the contract of the appellant. Apparently, there was an incident of assault on a particular date. Allegation is that the appellant instigated and organized the incident of assault on the writ petitioner. Allegation of the writ petitioner is that the appellant was also looking at various benefits from the writ petitioner and upon not receiving the same from the writ petitioner created unwarranted obstacles in the writ petitioner executing the contract appropriately.

16. Faced with such allegations, the police initially registered two police complaints as FIRs. Charge sheet in respect thereof were submitted. Writ petitioner approached Writ Court for the other police complaints against the appellant complaining of police inaction.
17. Learned Single Judge on the basis of such allegations called upon the Chief Vigilance Officer to look into the allegations made by the writ petitioner and submit a report. Chief Vigilance Officer considered the allegations and by a detailed report rendered in several pages found that the appellant guilty of certain misdeeds.
18. This report of the Chief Vigilance Officer was considered by the learned Single Judge. Learned Single Judge thereafter directed the employer to initiate departmental proceedings. Learned Single Judge also directed

the CID to take up the investigation with regard to the police complaints notwithstanding approval of the employer with regard thereto.

19. First issue raised is that whether the Writ Court can direct the employer to initiate departmental proceedings against its employees.

20. In the facts and circumstances of the present case, we need not enter into such arena since learned advocate appearing for WBSEDCL, on instructions, submits that WBSEDCL which the employer of the appellant, proposes to initiate departmental proceedings as against the appellant on the basis of the report of the Chief Vigilance Officer, independent of the direction of the High Court. He submits that WBSEDCL could not do so all this time in view of the stay granted by the Coordinate Bench.

21. Since the employer is of the view that the departmental proceeding needs to be initiated against the appellant, a Writ Court need not interject with regard thereto at this stage. We keep the issue as to whether the Writ Court can direct an employer to initiate departmental proceedings open.

22. The next issue is whether the learned Single Judge erred in directing the criminal complaints to be registered as FIRs and the same be investigated by CID or not.

23. The criminal complaints, disclose commission of cognizable offences. A Constitutional Court can mandate both registration of an FIR as also identify the Agency by which such investigation is to be conducted, in the event the complaint to the police disclose commission of cognizable offences. In fact, a Constitutional Court can substitute the Investigating Agency if the facts and circumstances so warrants.
24. Learned Single Judge in its discretion considered the contents of the police complaints and is of the view that the same discloses commission of cognizable offences. Such finding is not established to be perverse.
25. We perused the complaints lodged by the petitioner. The same do allude to commission of cognizable offences. Essentially the complaints are of criminal intimidation, demand for favour, abuse and assault. Therefore, there is no impediment in the police registering such complaints as FIRs.
26. The discretion exercised by the learned Single Judge in identifying the Investigating Agency need not be interfered with at the behest of the appellant since an accused in a criminal proceeding cannot be allowed to choose the Investigating Agency.

27. **Raghunath** (supra) is of the view that a Letters Patent appeal is maintainable so long the writ petition is not in relation to a criminal case which results in a sentence of punishment being pronounced.
28. **Rajnit Prasad** (supra) relates to a Public Interest Litigation where an advocate filed a PIL seeking initiation of disciplinary proceedings against an IPS officer. In such factual matrix, it was observed that the initiation of disciplinary proceeding is at the discretion of the employer.
29. In the facts and circumstances of the present case as noted hereinabove, the employee itself seeks to initiate disciplinary proceedings against the appellant, independent of the direction of the High Court.
30. **Satpalsa High School & Ors.** (supra) is of the view that for a writ petition to be finally disposed of either a Rule is required to be issued or at least the parties should put on notice.
31. In the facts of the present case, the appellant before us was put on notice with regard to the writ petition itself. In spite of notice, the appellant was not represented before the learned Single Judge. Therefore on facts, we are not minded to apply the ratio of **Satpalsa High School & Ors.** (supra) in the present case.
32. In such circumstances, we do not find no merit in the present appeal.

33. **F.M.A. 241 of 2025** and the connected application being **CAN 1 of 2023**
are **disposed of**.

(Debangsu Basak, J.)

34. I agree

S.D.

(Md. Shabbar Rashidi, J.)