

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

26.06.2025
Ct. no.2
Daily list Sl. 31
Moumita

WPA 16237 of 2024

**Keka Samanta
Vs.
The State of West Bengal & Ors.**

**Mr. Suman Dey
Mr. Nepesh Majhi
Mr. Hemanta Kumar Das
Ms. Poushali Das**

.....For the petitioner

**Mr. Biswabrata Basu Mallick, Ld. AGP
Mr. Sayan Ganguly**

....For the State

Mr. Suman Dey, learned advocate appears for the petitioner.

Affidavit-of-service, filed in Court today, in terms of the direction of this court dated **June 11, 2025** is taken on record. Affidavit-of-service shows that despite notice the added respondent is not represented.

Mr. Sayan Ganguly, learned advocate led by Mr. Biswabrata Basu Mallick, learned Additional Government Pleader appears for the state.

Petitioner claims that under the guidelines for setting up **Rogi Sahayata Kendra** under **National Rural Health Mission, annexure p-2 at page 29** to the writ petition, the private NGO who is represented through the respondent no. 6 had appointed the petitioner as one such Rogi Sahayak at a relevant hospital. The

appointment of the petitioner was made through an appointment letter dated **October 8, 2016, annexure p-4 at page 48** to the writ petition. The appointment letter was issued by the said private NGO in favour of the petitioner.

The letter itself shows the petitioner was a contractual employee of the said private NGO. Referring to a communication issued by the concerned rural hospital dated **March 27, 2024, annexure p-13 at page 79** to the writ petition, Mr. Suman Dey, learned counsel appearing for the petitioner submits that the hospital has asked the said private NGO to replace the petitioner for the alleged reasons mentioned in the said letter. As a result, the said private NGO, being the employer of the petitioner, issued a letter of termination of a service dated **March 30, 2024 at page 80** to the writ petition.

Mr. Suman Dey, learned counsel appearing for the petitioner then refers to a show cause notice dated **June 2, 2022, at page 64** to the writ petition, issued by the **Block Medical Officer of Health** of the concerned rural hospital in the name of the petitioner. The petitioner has replied thereto by its letter dated **June 4, 2022, at page 65** to the writ petition. Learned counsel further refers to **page 79** to the writ petition and submits through the said letter issued by the concerned rural hospital dated

March 27, 2024 some stigma was attached against the petitioner. The petitioner denies and disputes the same.

In the above fact situations, the petitioner has filed the instant writ petition praying for issuance of mandamus for quashing the said impugned communication dated **March 27, 2024** issued by the rural hospital **at page 79** to the writ petition and the impugned order of termination dated **March 30, 2024** issued by the said private NGO **at page 80** to the writ petition. Consequential reliefs are also sought for.

Mr. Biswabrata Basu Mallick, learned Additional Government Pleader appears for the state.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, this court is firm view, that the petitioner was engaged though under a government scheme but by the private NGO. The government scheme only provides for appointment of Rogi Sahayak for the effective patient administration by the rural hospitals.

Pursuant to the said guideline appearing **at page 29** to the writ petition the private NGO was engaged by the concerned rural hospital who intern had appointed the petitioner. The employment privity, in the facts of this case, is between the petitioner and the private NGO. The state has got nothing do with. Though it is submitted that the fund its provided by the state to the said private NGO

for making payment to the petitioner, this does not create any employment privity between the petitioner and the state or any Article 12 authority.

Furthermore, the communication dated **March 27, 2024 at page 79** to the writ petition was issued by the concerned rural hospital to the said private NGO.

In view of the forgoing reasons and discussions, this court is of the firm view that there no employment relationship between the petitioner and the state or any Article 12 authority, in the facts of this case.

Accordingly, this writ petition is not maintainable.

Resultantly, writ petition **WPA 16237 of 2024**, stands **dismissed**, without any order as to costs.

However, it is made clear that this court has not gone into the merits of the allegations raised by the petitioner or any counter allegation made against the petitioner.

It is also made clear that dismissal of this writ petition is not on merit and the same shall not preclude the petitioner to file appropriate proceeding before the competent and jurisdictional forum of law, if the petitioner is entitled to do so in accordance with law.

(Aniruddha Roy, J.)