

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Mr. Subesh Kumar Das (Administrative Member)

Case No – O.A. 324 of 2019

DR. DEBASIS SAMANTA Vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>1 22.04.2019</p>	<p>For the Applicant : Mr. A. Hati, Advocate</p> <p>For the Respondents : Mr. G.P. Banerjee, Advocate</p> <p>At the very outset it is submitted by Mr. A. Hati, learned advocate for the applicant, that since his client intends to contest the parliamentary election from the Kanthi Parliamentary Constituency in West Bengal, he has filed this application on 16th April, 2019 before the Tribunal praying for a direction upon the respondents to accept his letter of resignation dated 1st April, 2019 from service.</p> <p>Submission is that though the Election Commission of India, represented by the Chief Election Commissioner, having office at Nirvachan Sadan, New Delhi, the respondent no.5 and District Election Officer and District Magistrate, Purba Medinipur, West Bengal, the respondent no.6, have been impleaded as party respondents, he prays for leave to delete the said respondents from the array of respondents.</p>	

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	<p>On a query, Mr. Hati submits that this matter was mentioned on 16th April morning when the application was yet to be verified by the applicant and scrutinised by the Registry. It appears that on the next day, that is on 17th he had mentioned the matter at the first sitting of the Tribunal and had furnished the mentioning form. Due to the urgency pleaded by Mr. Hati the Registry started making arrangements for taking up the matter. However, when the Registry tried to contact Mr. Hati it was found that he had left the Tribunal. Therefore, the matter was not moved on that day. It is to be noted that the matter is appearing today in the list. Since Mr. Hati submits that the matter is urgent and unless appropriate order, including interim order is passed, his client will be seriously prejudiced, the matter is taken up for hearing.</p> <p>As prayed for, let respondent nos. 5 and 6 be deleted from the array of respondents and the cause title be amended accordingly.</p> <p>Since the copies of the application are yet to be served and according to Mr. Hati tomorrow is the last date to file nomination, Mr. G.P. Banerjee, learned advocate, who normally appears on behalf of the State respondents, is requested to appear in this matter. The Legal Remembrancer is directed to regularise his appointment.</p>	

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	<p>Let a copy of the original application be served on Mr. Banerjee, which is served and accepted.</p> <p>In this application the applicant has prayed for the following reliefs :</p> <p>“a) Pass an order commanding / directing the respondents to accept the resignation tendered by the applicant on 1st April, 2019 with effect from that date so that your applicant can contest the ensuing Parliamentary Election 2019.</p> <p>b) Any other order / orders and / or direction / directions, as this Learned Tribunal deems fit and proper for the ends of justice.”</p> <p>The interim order as prayed for is as under :</p> <p>“Pass an order commanding / directing the respondents to accept the resignation tendered by the applicant on 1st April, 2019 with effect from that date so that your applicant can contest the ensuing Parliamentary Election</p>	

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	<p style="text-align: center;">2019.”</p> <p>It appears that the applicant, who is a Medical Officer in the Government of West Bengal, had tendered resignation on 1st April, 2019. According to him since the letter of resignation was not accepted further representations were filed on 8th April, 2019, on 11th April, 2019 and on 12th April, 2019 before the authorities. Since those representations went unheeded, this application has been filed. It has been stated that since the applicant wants to contest the parliamentary election from Kanthi Parliamentary Constituency in West Bengal direction may be issued upon the respondents to accept his resignation from service.</p> <p>On a query, it is submitted by Mr. Hati that the applicant had earlier sent a letter of resignation from service on 1st April, 2017 and since then he is not attending office.</p> <p>Mr. Banerjee submits that though the applicant has filed this application praying for a direction upon the respondents to accept his letter of resignation dated 1st April, 2019 for contesting the ensuing parliamentary election, however, he has no instruction whether any disciplinary proceeding is pending against him.</p>	

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	<p>Having heard Mr. Hati and Mr. Banerjee and considering the facts and circumstances of the case the application is disposed of by directing the Additional Chief Secretary, Department of Health and Family Welfare, Government of West Bengal, the respondent no.1, to dispose of the letter of resignation of the applicant dated 1st April, 2019 from service by passing a reasoned order to be communicated to the applicant in course of this day.</p> <p>Let a plain copy of this order be given to the parties on usual undertaking.</p> <p><u>Later :</u></p> <p>Mr. Hati, submits though earlier in the day O.A. 324 of 2019, Dr. Debasis Samanta vs. The State of West Bengal & Others, has been disposed of by passing an order, in view of the order passed today subsequently in O.A. 328 of 2019, Dr. Ashok Kandary vs. The State of West Bengal & Others, relying on the order dated 5th April, 2019 passed by the High Court in W.P.S.T. 49 of 2019, Dr. Md. Rezaul Karim vs. The State of West Bengal & Ors., order passed in O.A. 324 of 2019 be recalled and similar order may be passed as passed in Dr. Ashok Kandary, as the facts and circumstances are more or less similar.</p>	

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SCN.	<p>In view of the submission made by Mr. Hati and after hearing Mr. Banerjee the order passed earlier on the day is recalled and the following order is passed in view of the order passed in Dr. Md. Rezaul Karim (Supra) and in O.A. 328 of 2019.</p> <p>In view of the order passed by the High Court in a similar matter, let there be an interim order granting leave to the applicant in the instant application to file nomination if the applicant desires to contest the parliamentary elections. However, filing of such nomination and any consequence thereof will abide by the result of this application. Let reply be filed by 14th June, 2019. Rejoinder, if any, by 21st June, 2019. Matter to appear under the heading “Reply, rejoinder and Objection” on 25th June, 2019.</p> <p>Let a plain copy of this order may be given to the parties on usual undertaking.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	