

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Mrs. Urmita Datta (Sen), Member(J) &
Hob'ble Sayeed Ahmed Baba, Member (A)**

Case No. – OA-722 of 2021

Dr. Sabyasachi Roy VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. P.K. Roy, Ms. K. Roy, Ms. J. Rudra Learned Advocates.
<u>05</u> 07.10.2021	For the State Respondent	: None

As per the applicant, he is working as B.M.O.H., Chotojagulia, Barasat. According to the applicant on 02.09.2021, one Raju Dutta husband of local Panchayet Pradhan, Smt. Sandhya Dutta suddenly entered into the Health Centre alongwith 10/12 persons and illegally demanded vaccination of his associates at Primary Health Centre The Supervisor of the said Duttapukur Health Centre, however, refused to do so since the said day was fixed for vaccination for 100 (one hundred) pregnant women, who have already registered their name long back. But all of a sudden, the Raju Dutta became violent and started assaulting the health staff. Mrs. Ashalata Das, Health Supervisor, Duttapukur P.H.C., Barasat-I who made a representation to the applicant on the very day i.e. 2.09.2021 asking for ensuring security of the health staff against said Raju Dutta. The applicant being the incharge of the B.P.H.C. Duttapukur has forwarded the said complaint of Mrs. Ashalata Das to C.M.O.H. North 24 Pgs. on 02.09.2021 in the evening. The concerned C,M.O.H. on receipt of said complaint of Mrs. Das alongwith the forwarding letter had forwarded the same to Duttapukur P.S. against Raju Dutta and his associates . In response to which one F.I.R. being Duttapukur P.S. case No. 751/21under Section 186/506/509/34 of I.P.C. was lodged. Further the said Ashalata Das, the Health Supervisor also lodged a complaint with the O.C of Duttapukur P.S. on 03.09.2021(Annexure-A/9) and on the basis of such two F.I.R., Shri Raju Dutta was arrested on 04.09.2021 and was produced before

ORDER SHEET

Form No.

Dr. Sabyasachi Roy

Vs.

Case No. **OA-722 of 2021**

The State of West Bengal & Ors.

the Ld. C.J.M. Barasat. However, on 04.09.2021 the applicant received one Whats App message at about 8.30 p.m. from C.M.O.H, Barassat asking him to put forward his defence statement against clipaudio which had become viral in social media.. Further vide Memo. No. CMOH dated 04.09.2021 the applicant was further instructed to put forward his statement of defence regarding his alleged involvement in the viral audio. It has been further instructed that the statement of defence should reach by 12.00 noon on 06.09.2021. However, without granting any opportunity of making defence statement, the applicant was put under suspension under Sub-rule of 1(2) of Rule 7 of W.B.S.(C.C.A) Rules, 1971, whereby he was put under suspension on 04.09.2021 itself. According to the applicant, the suspension order was received by him 12.00 clock at night through Whats App message.

Being aggrieved with, the applicant has filed the instant application.

As per the applicant, though he was asked to make his statement with regard to one viral audio before the enquiry committee on 06.09.2021, however, without any preliminary enquiry, he has been put under suspension on the very day i.e. on 04.09.2021, which according to the applicant is not permissible under settled principle of law as held by the Hon'ble Apex Court in the case of State of Odisha Vs. B.K. Mohanty reported in (1994) 4 SCC 126, paragraph 30. The counsel for the applicant has thus prayed for interim protection by way of staying of the order of suspension.

None for the respondent has appeared. Though the counsel for the applicant has filed affidavit of service. However after going through the notice, it is noted that the applicant has given a Notice of Mentioning for 30.09.2021. Therefore, since the respondents are not aware of the date of mentioning for listing of the case.

In view of the above, we are not in a position to pass any interim

ORDER SHEET

Form No.

Dr. Sabyasachi Roy

Vs.

Case No. **OA-722 of 2021**

The State of West Bengal & Ors.

protection at this stage without hearing the respondents. The applicant is directed to serve notice afresh. Let the matter be listed for admission hearing on **11.11.2021**. The applicant is directed to serve fresh notice along with this order.

Since the circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

SAYEED AHMED BABA
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)

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