

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member (J),

**Case No. OA – 370 of 2022**

**Dr. Sabyasachi Roy - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order  
For the Applicant : Mr. P.K. Roy,  
Learned Advocate.

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20.06.2022 For the Respondents : Mr. G.P. Banerjee,  
Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 354 – WBAT / 2J-15/2016 dated 18<sup>th</sup> May, 2022 issued in exercise of the powers conferred under Section 6(5) of the Administrative Tribunals Act, 1985.

Affidavit of service has been filed. Let it be kept with the record.

The instant application has been filed basically challenging the Show Cause Notice dated 30.05.2022, whereby the respondent authority had directed the applicant asking him as to why Departmental Proceeding should not be initiated against him on the basis of an enquiry report dated 04.09.2021. The counsel for the applicant has drawn my attention to the said Show Cause Notice, wherein the Director of Health Services relying on the basis of the enquiry report dated 04.09.2021 had recorded that the misuse of the vaccine by the applicant was approved and on the basis of the above such activities on the part of the applicant, which is highly irregular and unbecoming, the instant Show Cause Notice has been issued.

As per the applicant, from the perusal of the aforesaid Show Cause Notice, it would be evident that the respondents had already disclosed their mind that the allegation against the applicant has been proved on the basis of the enquiry report. Therefore, issuance of Show Cause Notice has become a futile exercise and in the reply to that, according to the applicant, would not be . Therefore, the counsel for the applicant has prayed for interim protection by way of staying of the operation of the Show Cause Notice till the disposal of the application.

However, the counsel for the respondent has submitted that the applicant should reply to the Show Cause as an opportunity has been granted to him by way of the instant application but no final decision has been taken up.

Heard both the parties and perused the records.

I have gone through the impugned order dated 30.05.2022 wherein it has been stated as follows :-

- a) “Whereas Dr. Sanbuyasachi Roy, Block Medical Officer of Health, Chhotojagulia, BPHC, Barasat-I Block, North 24 Parganas while

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functioning as BMOH at the said institution an Audio Clip was reportedly published in the social media and immediately it receipt an enormous spread among the public. One of the voices in the conversation (relating to refund of money taken on his behalf for arranging Covid-19 Vaccination), as it was suspected by the district authority, was that of Dr. Sabyasachi Roy;

- b) And whereas Chhotojagulia BPHC, Barasat-I Block, North 24 Parganas has been earmarked as a designated Vaccination Centre of Covid -19 vaccine and Dr. Sabuyasachi Rouyn being the BMOH of the said institution has been functioning as the over all in-charge of the said vaccination centre;
- c) And whereas on receipt of the said Audio Clip an enquiry committee was constituted and the said enquiry committee has since submitted report where from it was revealed that;
- d) Dr. Sabyasachi Roy, BMOH Chhotojagulia BPHC, Barasat-I, North 24 Parganas has confessed and admitted the voice to be his.
- e) Dr. Sabyasachi Roy in his deposition has stated that he give vaccine to one relative of Dibakar Das in his residence without receiving any money. It was evident that some registration was done at the portal for first dose of vaccine by the first person i.e. Dibakar Das.
- f) The misuse of the vaccine by the said Dr. Sabyasachi Roy was thus proved, and this act exemplifies a breach of public interest during the pandemic situation.
- g) And whereas above activities on the part of Dr. Sabyasachi Roy, BMOH, Chhotojagulia BPHC, Barasat-I Block, North 24 Parganas are highly irregular, unbecoming as being the BMOH, Chhotojagulia BPHC, he has acted beyond his power/limit/jurisdiction for his personal gain which tantamount to violate rule 3 of the W.B.S. (Duties, Rights & Obligations of the Govt. Employees’) Rules, 1980;
- h) And as such , Dr. Sabyasachi Roy, BMOH, Chhotojagulia BPHC, Barasat-I Block , North 24 Parganas is hereby directed to show cause as to why disciplinary proceeding should not be initiated against him for the reasons stated above within 5 (five) days from the date of receipt of the memorandum positively.”

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I have heard the parties and perused the documents. It is noted that in the Show Cause Notice, the Disciplinary Authority has stated that charges against the applicant has been proved by the Enquiry Committee.

In view of the above, let the matter be admitted. Respondents are directed to file reply by four weeks, rejoinder, if any, by two weeks thereafter. Since the applicant has a good prima facie case, therefore, the respondents are directed to keep in abeyance the operation of Show Cause Notice dated 30.05.2022 till the next date.

Let the matter be listed for hearing on **23.08.2022**.

URMITA DATTA (SEN)  
MEMBER (J)