

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

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

**Case No. – OA-63 of 2020**

**Baisakhi Banerjee VERSUS – The State of West Bengal & Ors.**

Serial No. and Date of order	For the Applicant	:	Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.
<u>05</u> 15.02.2022	For the State Respondent	:	Mr. S.N. Roy, Learned Advocate.
	For the Advocate General.		Mr. G.P. Banerjee; Learned Advocate.

The counsel for the applicant at the first instance has submitted that he does not want to press prayer 7 (b) of the instant application whereby Rule 10 (3) of WBS (CCA) Rules, 1971 has been challenged. Prayer is allowed. The applicant is directed to delete the prayer 7 (b) from the petition. Therefore, Mr. G.P. Banerjee appearing on behalf of the Advocate General is dispensed with for further proceedings.

The instant application has been filed basically challenging the Memo dated 23.09.2019, whereby the earlier Memo dated 06.06.2019 was cancelled and in compliance of the recommendation of the State Vigilance Commission, the applicant was directed to submit written statement of defence before the enquiring authority. It has been further submitted that on the same day i.e. on 23.09.2019, the enquiring authority and presenting officer was also been changed. As per the applicant, she was served with charge sheet dated 06.06.2019 by the Additional Secretary to the Govt. Of West Bengal.

As per the applicant by Memo dated 30.10.2018, the Secretary to the Govt. Of West Bengal had appointed one enquiring officer as well as presenting officer to hold enquiry. Thereafter, one charge sheet was issued vide Memo dated 06.06.2019. However, vide Memo dated 23.09.2019, the Additional Secretary to the Govt. Of West Bengal has not only cancelled the earlier Memo dated 06.06.2019 but in compliance to the recommendation to the State Vigilance Commission, had issued the new Memo of charge sheet

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on the self same charged on 23.09.2019. Being aggrieved with, he has filed with the instant application and has prayed for interim protection.

As per the counsel for the applicant the disciplinary authority has acted and guided by the State Vigilance Commission, which is not valid in the eye of law.

The counsel for the respondent has prayed for short accommodation to file a short reply in this regard as to why a fresh charge sheet has been issued on the self same ground after appointment of enquiring authority and presenting officer.

Admit.

Respondents is directed to file short reply by fifteen days in the interim, the respondents are directed not to proceed with the disciplinary proceedings by the next date. The matter will appear on **10.03.2022 for orders.**

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.

URMITA DATTA (SEN)  
MEMBER (J)

sc

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