

1909
2025
FRIDAY

Court : MB-07
Item : AD-03
Status :
ID : 266057
AR : **NANDY**

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 3688 OF 2022
CAN 1 OF 2025

BASUDEV PAN & ORS.
VS.
THE STATE OF WEST BENGAL & ORS.

MR. SHAKTI PADA JANA, ADVOCATE
.....for the Petitioners
MR. UDAY NARAYAN BETAL, ADVOCATE
MR. SOUMEN CHATTERJEE, ADVOCATE
MR. MRIGANKA PATRA, ADVOCATE
.....for the Respondent No. 4
MR. SUPRIYO CHATTOPADHAYA, ADVOCATE
MS. ITI DUTTA, ADVOCATE
.....for the State
CAN 1 OF 2025

1. This application has been presented seeking an interim order staying the operation of Memo No. 534/DMEE0/S24PGS dated 17.07.2025 issued by the District Mass Education Extension Officer, South 24-Parganas, and the Notice dated 07.08.2025 issued by the Secretary, Ramkrishna Mission Blind Boys' Academy, Kolkata.
2. Mr. Jana, learned Advocate representing the petitioner, submits that the applicants are non-teaching staff of the Mass Education Extension Directorate, Government of West Bengal, presently employed at Ramkrishna Mission Blind Boys' Academy (RKMBBA). He submits that suddenly the competent authority issued an order dated 05.01.2022, claiming that during their service tenure, the applicants had overdrawn a certain amount of money due to erroneous fixation of pay. Challenging that Memo, the petitioners have filed the present writ petition, which is still pending final adjudication. He further submits that during the pendency of the writ petition, on the plea that this Court has not passed any interim order staying the operation of the order dated 05.01.2022, the respondents issued a Memo dated 17.07.2025 directing the Secretary, RKMBBA, to recover the overdrawn amount.
3. Accordingly, the Secretary, RKMBBA, vide notice dated 07.08.2025, informed the applicants that the recovery process will be initiated from the salary payable to the petitioners.

4. Mr. Jana, citing the decision reported in (2015) 4 SCC 334 (State of Punjab & Ors. vs. Rafiq Masih (White Washer) & Ors.), submits that recovery from employees belonging to Class III and IV service on the ground of excess payment due to erroneous fixation of pay is not permissible.
5. Ms. Dutta, learned Advocate representing the State, vehemently opposes such contention. She submits that since the applicants have overdrawn the amount, the authority has rightly initiated the process to recover the amount from their salary.
6. Mr. Betal, learned Advocate appearing for Respondent No. 4, submits that since the authority directed RKMBBA to recover the amount, RKMBBA has acted in accordance with that direction.
7. Heard the learned Advocates appearing for the respective parties and perused the materials on record.
8. Whether the applicants have overdrawn a certain amount due to incorrect fixation of pay is a question to be resolved by this Court at the time of final decision in the writ-petition. I am informed that no interim order has been passed in that writ-petition.
9. However, if during the pendency of this writ-petition any amount is recovered from the salary of the applicants based on the Memo dated 17.07.2025, the applicants shall suffer serious prejudice and face undue hardship.
10. Therefore, having regard to the precedent laid down in *Rafiq Masih* and considering that the legality and/or validity of the impugned Memo is under challenge in the writ petition, the respondents are restrained from making any deduction from the salary of the applicants towards recovery of the alleged overdrawn amount until the disposal of the present writ petition.
11. The application being **CAN 1 of 2025** accordingly **disposed of**.
12. Let the writ-petition appear in the list two weeks after reopening of this Court following Puja Vacation for the year 2025.

(PARTHA SARATHI CHATTERJEE, J.)

