

17.12.2020

Ct. No. 24

Item No. 16

pk.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA No. 2004 of 2020

Goutam Mandal

-vs-

Union of India & Ors.

Mr. Achin Majumder,

Mr. Pratik Majumder

for the petitioner

Mrs. Chandreyi Alam,

Ms. Sanjukta Bhattacharya

for the UOI

The petitioner is a member of the Central Reserve Police Force. He is aggrieved by an order of transfer, which was passed in his favour transferring him from 66 Battalion, Kewakol, Gwaltore, Paschim Medinipur, West Bengal to Jharkhand, Ranchi.

The petitioner made a representation before respondent no. 5, the Commandant of the 66 Battalion and also before the Inspector General of Police, West Bengal Sector, Kolkata.

The petitioner submits that his representation have not been considered by the authorities till date.

By a movement order dated 20th January, 2020 arising out of premature inter-zonal transfer the petitioner was further transferred to Madhya Pradesh. The writ petition was filed by the petitioner in February 2020.

The learned advocate appearing on behalf of the respondents submits that as the petitioner has been transferred from Jharkhand to Madhya Pradesh, the High Court at Calcutta does not have the jurisdiction to decide the issue and the competent authority to decide the same will be the office at Delhi.

The learned advocate for the petitioner relies upon the judgement delivered by an Hon'ble Division Bench of this court in the matter of Bharat Coaking Coal Ltd, -vs- Jharia Talkies & Cold Storage Pvt. Ltd. reported in 1992(II) CHN page 80, paras 46, 47 and 49. The Hon'ble court in the said matter was of the opinion that regarding the provision of Clause 1 of Article 226 of the Constitution, the court had the jurisdiction to entertain the writ petition since the respondent no. 3 has his offices within the jurisdiction of this court although no part of the cause of action arises within the State of West Bengal.

The Hon'ble Supreme Court on repeated occasions have held that the jurisdiction under Article 226 of the Constitution of India cannot be invoked unless integral part of the cause of action arose within the jurisdiction of the said court.

In the instant writ petition it appears that the cause of action arose at Jharkhand and thereafter in Madhya Pradesh where the petitioner has been presently transferred.

In my opinion, the High Court at Calcutta does not have the jurisdiction to entertain the issue at this stage. The writ petition stands dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)