

24.12.2021.
Court No.13
Item No. 20
ap

**W.P.A. No. 20836 of 2021
(Through Video Conference)**

**Subhendu Kumar Paul & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Partha Sarathi Bhattacharyya,
Mr. Ashis Kumar Chowdhury,
Mr. Raju Bhattacharyya,
Mr. Rajib Ghosh,
Ms. Deborupa Mukherjee,
Ms. Sanjukta Das.

...For the petitioners.

Mr. T.M. Siddiqui,
Mr. Debasish Ghosh.

...For the State.

Mr. Kishore Datta, Id. Sr. Advocate,
Mr. Nilendu Bhattacharya,
Ms. Sumita Shaw,
Mr. Kapil Guha.

..For the respondent no.5.

Affidavit-of-service filed in Court today be taken
on record.

The writ petitioners are aggrieved by the alleged
failure on the part of Baranagar Police Station to
prevent obstruction from entering into the Office of the
Indian Institute of Psychometry.

The petitioners succeeded in a proceeding before
the National Company Law Tribunal at Kolkata which
appears to have held that their resignations as
Directors of the Indian Institute of Psychometry, were
not genuine documents and that the signature thereon
was procured fraudulently.

This Court does not enter into the merits of the
case. Suffice it to say that National Company Law

Tribunal directed restoration of status quo ante i.e. the petitioners as direction of the Institute.

This would mean that the writ petitioners' possession as Directors of the said Institute, would be restored.

Upon being obstructed and prevented as above the petitioners lodged a complaint with the Baranagar Police Station on 8th July, 2021.

In this writ petition inaction on the part of the police is alleged. It is submitted that the police were obliged to restore the petitioners back into the possession of Directorship at the said Institute.

The Officer-in-charge, Baranagar Police Station has filed a report dated 24th December, 2021. The same is taken on record. It appears therefrom that prior thereto on 6th July, 2021, a further FIR was registered at the instance of another complaint lodged by Mr. Amitav Roy, the petitioner no.3 herein. The two FIRs are admittedly before the decision of the National Company Law Tribunal. A further complaint dated 13th December, 2021 has also been filed.

This Court finds absolutely no inaction on the part of the police. As on the date of two FIRs, the possession of the petitioners being restored back into the said premises did not and could not arise since they were admittedly not the Directors of the said Institute. It is only after the decision of the National Company Law Tribunal dated 25th November, 2021

that the petitioners' original status as Directors was restored.

The petitioners' argument that the Baranagar Police Station was obliged to, act in terms of the NCLT's order and put the petitioners back into the possession of the said Institute, cannot be accepted.

Baranagar Police have acted strictly in terms of the scope of their authority i.e. to register FIRs against the petitioners' complaint. Investigation is on.

For the purpose of enforcement of the order of the National Company Law Tribunal, the writ petitioners must avail the remedies provided under the Companies Act, 2013 and the National Company Law Tribunal Rules. The said Act and Rules are a complete Code.

It is, however, directed that the investigation of the two FIRs be completed as expeditiously as possible, preferably within a period of one month from the date of communication of a copy of this order.

The Officer-in-charge, Baranagar Police Station shall also ensure that there is absolutely no breach of peace in the area and regular vigil shall be maintained thereat.

With the above directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)