

AD. 8.
March 1, 2021.
MNS.

W. P. A. 7643 of 2020
with
IA No: CAN 1 of 2020
(Via video conference)

Md. Sofikul Islam and others
Vs.
The State of West Bengal and others

Mr. Pradyumna Sinha,
Mr. Suvam Sinha,
Mr. Sidhant Chowdhury

... for the petitioners.

Mr. Sirsanya Bandopadhyay

...for the respondent-authorities.

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

Despite service, none appears for the
private respondents, although the petitioners and
the respondent-authorities are represented
through learned counsel.

The petitioners allege that there is a civil
dispute between the petitioners and the
respondent no. 5 for which litigation is pending.
Due to such pendency, a resolution was taken by
the Malda Bar Association preventing any
advocate of the said Bar from representing the
petitioners in criminal cases connected with
complaints lodged by the respondent no. 5.

Learned counsel for the petitioners submits that the said complaints are *mala fide*, in view of the civil dispute going on between the parties.

Learned counsel appearing for the respondent-authorities submits that, in so far as the transfer of the case is concerned, the petitioners have appropriate remedy under Sections 407/408/191 of the Code of Criminal Procedure.

Upon hearing both sides, it appears that the resolution of the Malda Bar Association, complained of, annexed at page- 40 of the writ petition, is patently *de hors* Article 22 of the Constitution of India, which confers the right of a person to be defended by a legal practitioner of his choice. That apart, it is settled position of law that the rights of a person to be represented before a court of law by advocates cannot be curtailed in any manner.

Accordingly, W. P. A. 7643 of 2020 is disposed of by directing respondent no. 4 to provide adequate police protection to the petitioners in the event the petitioners face any obstruction in entering the premises of the Malda Court. That apart, respondent no. 4 shall also ensure, upon being approached by the

petitioners, that the petitioners are allowed to be represented by counsel from other courts, if need be.

The purported resolution dated May 22, 2020 of the Malda Bar Association, restraining all members of the said Bar from defending the petitioners is palpably illegal and is, thus, set aside. That apart, the petitioners will be at liberty to approach the Legal Services Authorities for legal assistance in order to defend the petitioners in the said criminal cases. If so approached, the authorities shall extend all cooperation to the petitioners.

In view of disposal of the writ petition, the connected application, bearing CAN 1 of 2020, is also disposed of.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)