

27.01.2021
Item No.1
AP/ss

WPA 619 of 2020

Bimal Chandra Narjinary
-Vs.-
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Kumar Shantanu

.. ... for the petitioner

Mr. Hirak Barman,
Ms. Bedushruti Bose

... .. for the respondents

In this writ petition, inter alia, the writ petitioner has sought for taking appropriate steps for arrest of accused persons under the relevant provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also for fresh and independent enquiry or investigation by the competent person or any authority or criminal investigation department other than the police authority for the redressal of grievances of the petitioner.

During course of hearing, it has come to the knowledge of the Court that there was a previous writ petition at the instance of the present writ petitioner being WPA 221 of 2019 which was disposed of by a coordinate Bench vide order dated 23rd July, 2019 upon recording the fact that on the complaint lodged by the petitioner a case being Boxirhat Police Station Case No.147 of 2019 dated 16th July, 2019 under Section 3(iv) of the said Act of 1989 had been initiated and investigation was in progress.

The contents of the order dated 23rd July 2019 of the coordinate Bench goes to show that the steps have been taken by the police authorities on receipt of complaint from the petitioner prior to disposal of the writ petition. Today, the order dated 23rd July 2019 placed before this court is kept with the record.

In support of the writ petition argument has also been made today that there has been a subsequent complaint dated 18th February, 2020 lodged before the same police station i.e. Boxirhat Police Station and no effective steps have been taken by the police authority in the matter of investigation and/or accepting such complaint.

Another limb of argument on behalf of the writ petitioner is that under the said Act of 1989 there is a designated court which is required to conduct the trial instead of the criminal court before which the case in connection with the complaint lodged by the petitioner on 16th July, 2019 is pending.

Mr. Hirak Barman, learned advocate representing the State has submitted before this court report from the Superintendent of Police, Cooch Bihar, wherefrom it appears that in connection with the second complaint of the petitioner made before the concerned police authority on 18th February, 2020, inquiry was made but the allegation in the said complaint has not been substantiated. In addition

thereto, a communication dated 20th January, 2021 of the concerned police authority of Boxirhat Police Station Cooch Bihar addressed to the Additional Government Pleader, High Court Calcutta, contains the steps taken by the police authority in order to ascertain the ownership of the land which the petitioner is claiming to be the owner. It also appears from the said communication dated 20th January, 2021 that there were 18 names whose ownership of the piece of land in question was subjected to further query and the ownership of the said land in question as claimed by the petitioner was something to be pondered about.

It was further stated in the said communication that the enquiry report was sought from the concerned B.L.&L.R.O. vide Memo No.853/jhkd dated 23rd December, 2020 for further verification with regard to the certain points involved in the issue.

On perusal of the report furnished on behalf of the State respondents it appears that some steps have been taken to ascertain the ownership of the piece of land which is in question and still the investigation is going on to ascertain the correct state of affairs with regard to the issue of ownership. In addition thereto, anxiety which has been expressed by the writ petitioner during the course of hearing that the second complaint lodged before the concerned policy authority dated 18th February, 2020 has not been taken care of pales into

insignificance in view of relevant part of the report submitted on behalf of the police authority reveals that in spite of enquiry nothing has been substantiated as per the allegations made in the said complaint letter dated 18th February, 2020. In the above conspectus the writ petition does not merit interference by this court and accordingly dismissed.

However, it is made clear that the petitioner shall not be precluded from taking appropriate steps in connecting with the case pending before the Criminal Court initiated on the basis of his first complaint dated 11th July, 2019.

There shall be no order as to costs.

Report filed on behalf of the police authorities and the communication dated 20th January, 2021 are kept with the record.

Urgent Photostat certified copy of this order, if applied for, be given to the parties after compliance of all necessary formalities.

(Saugata Bhattacharyya, J.)