

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

29.09.2021
Item No.05
Court No. 01
Krishnendu
Dismissed

W.P.A. 806 of 2021

In re: An application under Article 226 of the
Constitution of India;

And

In re: Biswajit Dey
Versus
The State of West Bengal & Ors.

Mr. Kunaljit Bhattacharya
Mr. Abhisek Palit
.....for the Petitioner.
Mr. Subir Kumar Saha
Mr. Momenur Rahman
...For the State.

The present writ petition has been preferred
praying for the following reliefs:

- a) *A writ in the nature of Mandamus do issue directing the respondent authorities to act on the representations made by the petitioner and to submit a report before this Hon'ble Court within such time as this Hon'ble Court may deem fit and proper;*
- b) *A writ in the nature of Mandamus do issue directing the respondent authorities to return the documents of the vehicle of the petitioner which has been seized by the police authorities;*
- c) *A writ in the nature of Certiorari do issue directing the respondents to transmit all records pertaining to the instant case before this Hon'ble Court so that on perusal of the same conscionable justice may be administered;*
- d) *Rule NISI in terms of prayer (a) to (c) as above;*
- e) *Ad-interim order in terms of prayer (a) and (b) above;*
- f) *Such other or further order or orders be passed and/or direction or directions be given as to this Hon'ble Court may deem fit and proper;*

Mr. Bhattacharya, learned advocate appearing for the petitioner, submits that on 23rd February, 2021 at about 10.30 a.m. when he was travelling from Mateli to Siliguri along with his family members and his ailing mother, his private vehicle was stopped at Dumdim More under Mal Police Station by some civil volunteers. The car was detained for one and half hours and the police officials misbehaved with him and his family members. Aggrieved by such conduct, the petitioner submitted representations to the respondent no. 3 on 24th February, 2021 and to the respondent no. 2 on 8th March, 2021 but no steps were taken.

He further submits that all the documents, pertaining to his vehicle, were also seized by the police authorities, including the civic volunteers without any reason whatsoever. However, during pendency of the present writ petition, the documents, which were seized, had been handed over to the petitioner but no steps had been taken by the respondent nos. 2 and 3 against the erring officials, who had misbehaved with him and his family members and as such they had failed to discharge their statutory obligations.

Mr. Rahman, learned advocate appearing for the State respondents denies and disputes the petitioner's contentions and submits that immediately

after receiving the representation submitted by the petitioner, the respondent no.3 by a memo dated 26th February, 2021 directed the respondent no.4 to take necessary action. The respondent no.4 thereafter conducted an enquiry and submitted a report to the respondent no.3 on 8th March, 2021. A copy of the said report has been handed to Mr. Bhattacharya, who prays for leave to use an exception to the said report. Let copies of the documents, as produced, be kept on record.

The grievance of the petitioner is that some police officials misbehaved with him and his family members on the date of the alleged incident on 23rd February, 2021. However, no formal complaint to that effect was lodged by the petitioner contemporaneously and he did not avail the remedies as provided under the Code of Criminal Procedure. The representation submitted by the petitioner to the respondent no.3 was immediately considered and the respondent no.4 was directed to take necessary action, who in turn conducted an enquiry and submitted a report. A perusal of the petitioner's representation and the report submitted by the respondent no.4 reveal that allegations and counter allegations have been levelled by the parties against each other and such disputed facts cannot be adjudicated in the present application.

In view thereof, no interference is called for in

the present writ petition and the same is, accordingly, dismissed.

Nothing in this order shall prevent the petitioner from taking appropriate steps before the competent forum, if so advised and in accordance with law.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tapabrata Chakraborty, J.)