

November 24, 2022
AD 12
Court No.1
SG

MAT 290 of 2022
with
CAN 1 of 2022

Bappa Roy
vs.
State of West Bengal and others

Mr. Monish Sen,
Ms. Oisani Mukherjee, Advocates
... for the appellant

Mr. T.M. Siddiqui,
Mr. Susanta Pal,
Ms. Ananya Neogi, Advocates
... for the State

Mr. Gaurav Khaitan,
Mr. Srinjoy Bhattacharyya, Advocates
... for the respondent Nos.6 & 7

Mr. Manik Das,
Mr. Falguni Majhi, Advocates
... for the respondent Nos.8 to 17

By this intra-court appeal, the writ petitioner has challenged the order of learned Single Judge dated 19.01.2022 passed in WPA 16679 of 2021 whereby learned Single Judge has dismissed the petition on reaching to the conclusion that there was no inaction on the part of the police.

On the previous date i.e. 29.09.2022 this Court had heard learned counsel for the parties at length and had examined the matter on merit and had passed the following order:

“This appeal is directed against the order of the learned Single Judge dated 19th January,

2022 whereby WPA 16679 of 2021 has been dismissed.

The appellant had approached the Writ Court with the plea that he is a permanent employee of the respondent Nos.6 and 7 being the Graphit India Limited and that the appellant had borrowed a sum of ₹10,00,000/- from the other private respondents and that the entire amount was repaid to them and there is no further due, but still the other private respondents are threatening the appellant that unless the appellant would go on paying monthly interest, he would not be allowed to enter into his office.

The allegation in the petition was that as the appellant was not allowed to enter into his work place, therefore he had made a complaint to the police authority, thereafter submitted a representation dated 23.08.2021 to the Commissioner of Police and he had also sent representation dated 22.09.2021 making the complaint to the employer in this regard. Appellant had thereafter filed the petition seeking a direction to the respondents to render police help and assistance to the appellant to enter into his place of work and to act in accordance with law.

Learned Single Judge by the order impugned dated 19th January, 2022 taking note of the stand of the learned counsel for the State that the appellant had not cooperated in the enquiry or investigation and was not found in the residence and that the proceedings were taken under Section 107 of the Cr.P.C. has been dismissed the petition.

Learned counsel for the appellant has submitted that the livelihood of the appellant is affected, as he is not allowed to enter the workplace and his family is starving, therefore the learned Single Judge ought to have protected the appellant.

Learned counsel appearing for the employer (respondent No.6 and 7) has also submitted that the appellant has not attended the office since August, 2021, therefore notices have been issued to him.

Learned counsel for the other private respondents has initially very vehemently argued the matter and opposed the petition, but when this Court asked the learned counsel as to what is the interest of other private respondents in obstructing the entry of the appellant in the work place, he has changed his stand by submitting that private respondents are only denying factual averment made in the petition.

Learned counsel for the State has also submitted that the appellant had never approached the State authorities. He has filed the report and has submitted that the E.O. had tried to contact the appellant many times, but every time he was not available at his residence.

On a specific query being put by this Court to the learned Counsel for the State, if the police authorities are ready to ensure the safe entry of the appellant in the work place in case the appellant approaches the police authorities, learned counsel for the State has not given any positive answer and has submitted that he has no instruction in this regard.

It is a case where a citizen has approached this Court with the plea that his family is starving because he is not allowed to enter the work place and seeking protection of his life and liberty ensured under Article 21 of the Constitution of India. It is unfortunate that learned counsel for the State is not even in a position to state before this Court that the State will ensure the safe entry of the appellant in the work place.

We are of the opinion that the appellant is entitled to safe entry in the work place so that he can earn his livelihood and take care of his family.

Hence, we permit the appellant to approach the respondent No.3 tomorrow i.e. on 30th September, 2022 at 11 a.m., when the respondent No.3 will ensure the safe entry of the appellant in his work place and subsequent working days also subject to permission by the employer. The matter is kept pending to obtain report from the respondent No.3 on the next date of hearing.

Meanwhile it will be open to the learned counsel for the concerned parties to place their stand on record by filing an appropriate affidavit.

List on 16th November, 2022.”

Learned counsel for appellant has pointed out that on 30.09.2022 the appellant had approached respondent No.3 and he has been permitted the safe entry into the premises of the employer. He has also submitted that thereafter the appellant is regularly attending the duty without any threat or problem.

Learned counsel for respondent Nos.6 and 7, employer, has also affirmed this submission by submitting that the appellant is now regularly attending duty without any difficulty and respondent Nos.6 and 7 has no difficulty in this regard.

Learned counsel for the State has also submitted that the appellant has been extended the protection and he is attending his duty in the premises and in case, if the appellant comes with any such complaint about the

obstruction by any private person restricting his entry into the premises of the employer then the same will be duly looked into. He has also filed the report in this regard which is taken on record.

Learned counsel for respondents have submitted that no affidavits have been used in the petition, therefore, the allegation should be deemed to be denied. Such prayer is accepted.

Having regard to the above subsequent development, undisputedly nothing survives for decision in this appeal which is accordingly disposed of.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]