

S/L 199 (ML)
26.08.2022
Court. No. 19
GB

WPA 15343 of 2022

Dr. Apurba Kumar Ghosh
VS
The State of West Bengal & Ors.

Mr. Allen Felix.

...for the Petitioner.

*Mr. Raja Saha,
Mr. S.P. Lahiri.*

...for the State.

*Mr. Uday Sankar Chattopadhyay,
Ms. Trisha Rakshit.*

...for the Respondent No.8.

The petitioner is a professor at the University Institute of Technology under Burdwan University. The petitioner prays for quashing of the Burdwan Police Station Case No.701 of 2022.

It is the contention of the petitioner that the police authorities must be restrained by this Court from proceeding with the investigation of the said case. The petitioner alleges that the petitioner is a public servant and the police authorities cannot take any steps in the matter, without a prior sanction.

The FIR discloses that while conducting the admission of some students, exemptions were given by the petitioner and other professors. Other students protested. The de facto complainants being employees also raised their objection. A quarrel took place, a fight occurred and there was scuffling. Over this incident, Burdwan Police Station Case No.701 of 2022 was registered under Sections 341/323/325/427/506/34 of the Indian Penal Code.

The petitioner relies on the amendment of Section 21 of the Indian Penal Code and submits that the expression 'public body' includes university and university teachers have been brought within the ambit of public servants. The notification of the Ministry of Law and Justice has been relied upon. According to the petitioner, the investigation cannot be proceeded with as the petitioner is a professor of a university and is thus covered by the definition of 'public servant'. He submits that sanction would be necessary.

The complaint which has been filed, indicates that the dispute during admission of students. Over the issue of granting exemptions to some students, a quarrel and a hot altercation took place between the parties and some persons sustained injuries.

The investigation with regard to such occurrence is in progress and is at its initial stage. The prayer for quashing of the FIR, cannot be adjudicated at this stage. The provisions of Section 197 of the Code of Criminal Procedure categorically states that no Court shall take cognizance of an offence committed by a public servant or a Judge or a Magistrate, without previous sanction. Here, the stage of cognizance by the court has not yet been arrived. The investigation has to be completed in accordance with law. Thereafter, if the cause of action of the petitioner still survives, the petitioner may approach the appropriate forum, at the appropriate stage.

Accordingly, the writ petition is dismissed.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)