

S/L 6
26.08.2022
Court. No. 19
GB

WPA 17995 of 2022

Shyamal Kumar Pal & Ors.
VS
The State of West Bengal & Ors.

*Mr. Debangana Bhattacharjee,
Ms. Swarnali Saha.*

...for the Petitioners.

*Mr. Subhabrata Datta,
Mr. Banibrata Datta.*

...for the State.

*Mr. Sabyasachi Banerjee,
Mr. Anand Keshari.*

...for Defacto Complainant.

Affidavit-of-service filed in Court today, be kept with the record.

Mr. Sabyasachi Banerjee and Mr. Anand Keshari, learned advocates, seek to intervene on behalf of the defacto complainant. The proceedings which have been challenged, arise out of the complaint filed by Mr. Banerjee's client. Such prayer is allowed.

The petitioner nos.1 and 4 are the employees of the Contai municipality. The petitioner Nos.2 and 3 are their wives, respectively. The said petitioner nos.2 and 3 were allegedly allotted some stalls for the purpose of business.

The Chairman of the Contai municipality having found that 14 stalls had been allotted without following the procedure, filed a complaint before the police authorities. The police authorities made a preliminary enquiry and thereafter registered an FIR. Contai Police Station Case No.265 of 2022 dated June 29, 2022 under Sections 406/409/420/467 /468/471/477A/120B of the Indian Penal

Code was registered. The investigation is in progress. The petitioners have been issued notice under Section 160 of the Code of Criminal Procedure. Apprehending that in case the petitioners respond to such notices, they may be arrested by the police authorities, the writ petition has been filed for protective orders.

It is the specific contention of the petitioners that they would cooperate with the police authorities, but a protective order should be granted to them, thereby restraining the police authorities from taking any coercive steps against them. Reliance has been placed on an order passed by the learned ACJM, Contai, in order to substantiate the reason for such apprehension. It is stated that while considering the applications for bail, the learned court had observed that some arrests had taken place, even after compliance of the notices issued under Section 160 of the Code of Criminal Procedure, to other persons .

At this juncture, when the investigation is at its initial stage and nothing is available before this Court as to why the petitioners apprehend arrest, the writ petition cannot be entertained with the prayers made therein. The notice under Section 160 of the Code of Criminal Procedure has been issued requiring attendance of the petitioners. The Investigating Officer, making the investigation has the authority under the law to require attendance of any person, who may have information or may be acquainted with the subject matter of the investigation. Whether the names of the petitioners would emerge as accomplices or otherwise, in the

subsequent stages of the investigation, is a matter which the writ court cannot decide. In any event, the writ Court cannot monitor and regulate an investigation. The remedy of the petitioners is not before the writ Court. If they apprehend arrest, they have remedies before the appropriate forum.

Accordingly, the writ petition is dismissed.

The dismissal of the writ petition shall not be construed as a denial of the rights of the petitioners before the appropriate forum and shall also not be construed as an opinion of the Court on the complicity of the petitioners in the alleged offences, which are being investigated.

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.)