

12.09.2022.
Court No.13
Item No. 6
ap

W.P.A. No. 20708 of 2022

**Future Generali India Life Insurance Company
Limited
Versus
The State of West Bengal & Ors.**

Mr. Atarup Banerjee,
Mr. Arindam Sen,
Mr. Saurav Basu.

...For the petitioner.

Mr. Arijit Chakrabarti.

...For the State.

Affidavit-of-service filed in Court today be taken
on record.

The petitioner is unhappy with the investigation
into the FIR being Phoolbagan Police Station Case No.
187 dated 21.10.2020 under Sections
465/467/468/471/120B/408/409 of the Indian Penal
Code.

The First Information Report was registered
under the direction of the Additional Chief Judicial
Magistrate, Sealdah under Section 156(3) of the Code
of Criminal Procedure.

It is submitted by the Counsel for the State that
the case was closed by final report No.49 of 2022
dated 06.09.2022 since the insured refused to co-
operate. It is further submitted that co-operation was
required to ascertain her signature and the bona fides
of the Insurance Policy obtained. A report dated

08.09.2022 filed by the Phoolbagan P.S., in the form of instructions to State Advocate is taken on record.

Under normal circumstances, this Court would have directed to approach the Magistrate against the final report, inter alia, under Section 173(8) of the Code of Criminal Procedure. However, since certain glaring omissions in the investigation to this Court, the final report No.49 of 2022 dated 6th September, 2022 is set aside.

The principal reason behind this order is that Phoolbagan Police Station has not been able to obtain the signature or statement of the insured despite having the means to do so, inter alia, under the Code of Criminal Procedure.

It is submitted that the insured has since shifted to Delhi.

The aforesaid order shall not prevent the Detective Department of Anti Fraud Section, Lal Bazar, from taking over investigation if a request is made by Phoolbagan Police Station or by the Lal Bazar on its own motion.

The instant writ petition is also entertained since the learned Magistrate would not have the jurisdiction to pass the aforesaid directions on Anti Fraud Section, Lal Bazar, Kolkata.

It is expected that investigation shall be taken up sincerely by Phoolbagan Police Station and all

necessary steps shall be taken to obtain necessary evidence from all concerned.

The aforesaid investigation shall not, in any way, prevent the civil proceedings instituted by the Insurance Company from proceeding in accordance with law.

With the aforesaid directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)