

19.05.2023
Item Nos.9-11
gd/ssd

MAT/849/2023
IA NO: CAN/1/2023, CAN/2/2023
STATE OF WEST BENGAL AND ORS.
VS
SALIM AHMED AND ORS.
with
MAT/850/2023
IA NO: CAN/1/2023
STATE OF WEST BENGAL AND ORS.
VS
SALIM AHMED AND ORS.
with
MAT/852/2023
IA NO: CAN/1/2023, CAN/2/2023
STATE OF WEST BENGAL AND ORS.
VS
SALIM AHMED AND ORS.

Mr. S.N. Mookherjee, learned Advocate General,
Mr. Amitesh Banerjee,
Mr. Nilotpal Chatterjee,
Mr. Sirshanya Bandyopadhyaya,
Ms. Amrita Panja Moulick
..for the Appellants.

Mr. Ranajit Chatterjee,
Mr. Atish Kumar Biswas,
Mr. Prasenjit De,
Mr. Niladri Sekhar Ghosh,
Mr. Aniruddha Mitra,
Mr. Sourav Mandal,
Ms. Jyoti Agarwal
..for the Respondent Nos.1 and 2.

Mr. Anindya Kr. Mitra, Senior Advocate,
Mr. R.N. Majumder,
Mr. S.M. Obaidullah,
Mr. Ayan Bhattacharya
..for IIT.

1. These intra court appeals by the State of West Bengal challenging three different orders passed in WPA 23497 of 2022. All the orders concerned the

circumstances under which the son of the writ petitioner died, who was student of IIT, Kharagpur.

2. The apprehension of the State is that pursuant to the orders passed by the learned Writ Court dated 25.04.2023, it appears that the entire investigation itself is to be done by Dr. Ajoy Kumar Gupta, forensic expert, who had retired from the services of the State of West Bengal.

3. Mr. Anindya Kumar Mitra, learned senior counsel appearing for IIT, Kharagpur submitted that the institution has raised the question of maintainability of the writ petition by filing an affidavit-in-opposition.

4. Since the scope of these appeals is only limited to the second postmortem directed to be conducted by the learned Single Bench, it will be well open to the Management of IIT, Kharagpur to canvass all issues in these writ petitions.

5. From the submissions made by learned Advocate General as well as the various grounds raised in these appeals, we find that the State has not resisted the direction issued by the learned Writ Court for conducting second postmortem by Dr. Ajoy Kumar Gupta but the only apprehension of the State appears to be that in that process the investigation should not be taken over by the said forensic expert or by any other third party.

6. In our view, the stage is yet to come for any investigating agency to take forward the investigation and it can happen only after Dr. Ajoy Kumar Gupta conducts the second postmortem in terms of the direction issued by the learned Writ Court in its order dated 25.04.2023. However, we are of the clear view that the orders passed by the learned Writ Court should not be and shall not be construed to mean that the investigation will be done by Dr. Ajoy Kumar Gupta which shall be done by the appropriate investigation which wishes alone.

7. With this clarification, the appeals stand disposed of.

8. Considering the sensitivity of the issue, the order and direction issued by the learned Single Bench with regard to the second postmortem shall be implemented as expeditiously as possible without unnecessary loss of time, preferably within ten days from date.

9. Parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

