

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

The Hon'ble Justice Jay Sengupta

WPA 12625 of 2023

Sri Bishnu Chowdhury

-vs-

The State of West Bengal & Ors.

For the Petitioner-in-person : Mr. Bishnu Chowdhury

For the State : Mr. Amitesh Banerjee,
Mr. Suddhadev Adak.

For the CBI : Mr. Billawadal Bhattacharyya,
Mr. Sukanta Chakraborty.

For the respondent nos. 7, 8 & 9 :Mr. Ashoke Kumar Chakraborti, Id. ASG,
Mr. Arun Kumar Maiti.

For Mahesh Kumar Chowdhury : Mr. Arijit Sarkar
Mr. Sagnik Chatterjee

Heard on : 02.08.2023

Judgment on : 02.08.2023

Jay Sengupta, J.:

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities, especially the respondent no.4, to treat the petitioner's written representation as a complaint and upon the respondent nos.3 and 5 to provide proper police protection to the petitioner and his family members.

The petitioner appearing in person submits as follows. The petitioner had been coerced and intimidated to join one Mahesh Kr. Chowdhury and one Raju Gupta in committing a number of crimes in the State. He might have participated to some extent in these crimes at the behest of these two persons. In the process, he came to know about certain facts, which amount to no less than a big scam regarding recruitment of personnel in the Army as well as some other Central Para Military Forces by preparing forged documents. Even Pakistani nationals got benefited. This prompted the petitioner to approach the respondent authorities with representations for necessary action being taken into his complaints. However, the respondent authorities have not taken sufficient steps in this regard. Nor was the petitioner initially granted any police protection. It was only after the intervention of the Court that some police protection

was granted to him. Quite naturally, he feared of his life as he had acted as a whistle blower.

Learned Deputy Solicitor General representing the Central Bureau of Investigation submits as follows. This is no more an adversarial litigation, especially so far as the Central and the State agencies are concerned. Pursuant to a direction passed by this Court, a preliminary enquiry was conducted into the allegations. As would appear from the report filed by them, no irregularities have yet been found in regarding recruitment in the Armed Forces. However, as regards employment in the Central Para Military Forces some irregularities have already been detected. During preliminary inquiry, at least four such instances have come to light. The State of West Bengal being a bordering State provides for less cut off marks in the examinations for employment in the Central Para Military Forces. This seems to have prompted people from other States, especially from the northern part of the country to forge documents to show that they were domiciled in the State of West Bengal. Domicile certificates, matriculation certificates and caste certificates have been forged. It will be a matter of a more in-depth investigation whether foreign nationals have also taken recourse to the same modus operandi in applying for jobs in the Indian Forces. In one

case, the Sub-Divisional Officer who had issued the domicile certificate to one such applicant was approached to check whether it was his signature, which appeared to be so. The Sub-Divisional Officer flatly denied. However, it was the same Sub-Divisional Officer who had issued OBC certificates to the same candidates. Therefore, an FIR needs to be registered and the matter properly investigated to find out the true extent and gravity of the allegations levelled, which could have a national implication.

Learned senior counsel appearing on behalf of the Union of India supports the contentions of the learned Deputy Solicitor General and submits that in the interest of justice, an FIR needs to be registered and the offences investigated into.

Learned senior counsel representing the State relies on their report and submits as follows. This is clearly not an adversarial litigation. The investigation may involve taking necessary steps be taken in other States and even information to be obtained from the Interpol, if necessary. Therefore, the State has no objection if the CBI investigates into the alleged offences.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the reports filed by the agencies.

It appears that the petitioner has acted as a whistle blower and has brought to light a big scam involving illegal recruitment of personnel at least in the Central Para Military Forces on the basis of forged documents. It is not a case of a single infraction as would appear from the report of the CBI. At least four such instances were detected by them during preliminary enquiry.

The CBI, in fact, has come to a conclusion after such preliminary enquiry that offences of illegal recruitment were committed by preparing and using forged documents and there could be involvement of public officials in this.

It has been fairly contended by the learned counsel for the State that this is not an adversarial litigation.

It is absolutely necessary to find out the true expanse and depth of the malaise.

In the interest of justice and for the sake of security of the nation, the Central Bureau of Investigation would be best equipped to deal with such crimes having a pan India effect and would be in the best position to investigate into the alleged offences.

Considering the exigency and in view of the interference drawn by the CBI as would be evident from the report, it would be incumbent upon this Court to act immediately and direct an FIR to

be registered so that the same can be investigated by the CBI.

In view of the above and in the interest of justice, this Court is inclined to pass the following directions -

- (a) Let the CBI register a formal criminal case into the alleged offences involving illegal recruitment of personnel in the Central Armed Police Forces by use of forged documents and thereafter, investigate into the same.
- (b) The State shall render all assistance in this to the CBI.
- (c) Till the conclusion of investigation, the State also shall continue to provide police protection that has already been provided to the petitioner pursuant to his representation that is to say, a police picket shall remain posted in front of his house.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

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