

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 15279 of 2023

Akhtar Seikh and another

versus

The State of West Bengal and others

For the petitioners

Mr. Pawan Kumar Gupta
Mr. Ashok Das
Mr. Sourav Mukherjee
Ms. Sofia Nesar
Mr. Santanu Sett

For the State

Mr. Rajarshi Basu
Mr. Anubrata Santra

For the Respondent No.9

Ms. Ashika Daga
Mr. Jishnujit Roy
Mr. Aayush Lakhotia

For the Respondent No.10

Mr. Sourav Roy
Mr. Anirudh Goyal

For TRAI

Mr. Tarunjyoti Tewari

Heard on

04.10.2023

Judgment on

04.10.2023

JAY SENGUPTA, J:

This is an application praying for direction upon the
respondent authorities to initiate an inquiry against the
respondent Nos.4 and 6 for not video recording seizure

procedure in connection with the instant police case as mandated by the guidelines of this Court and a direction upon the respondent No.8 for not analysing the mobile phone tower location of the respondent No.4.

Learned advocate for the petitioners submits as follows. The petitioners have been arraigned as accused in a case under the NDPS Act. The real culprits including the owner of the offending vehicle in question were not implicated as accused in the case. As would be evident from the charge-sheet that video recording of the seizure procedure was done. Although a tower location analysis was done in respect of some of the accused, it was not done for the present petitioners and some others.

Learned counsel for the State relies on the report, which is taken on record and the case diary and submits as follows. As would be evident from the inventory list contained at page 11 of volume I of the case diary, the video recording of seizure procedure was done. There is a memory card containing the videography, which is one of the articles inventorised. A call record analysis was done in respect of some of the accused including the prime accused. It is the prosecution case that the prime accused had contacted the other accused during their journey. The other accused may have received such phone calls or met them from any location. The location was not at all relevant. The petitioners had taken up all these points before

the learned trial court but upon rejection of the same, did not prefer a revision.

At this stage, learned advocate for the petitioners submits that the memory card containing videography of the seizure procedure has not been supplied even after the stage of supply of copies under Section 207 of Cr.P.C. The petitioners shall be at liberty to pray for supply of the same.

I have heard the learned advocates for the parties and have perused the writ petition, the supplementary affidavit and the case diary.

It appears that the investigating officer has done the investigation meticulously and collected several relevant materials.

The grievance of the petitioners that the seizure procedure was not videographed is absolutely misconceived as the video is available in a memory card.

So far as the other allegation of the accused is concerned regarding non-analysing of tower locations of some phones, a reasonable explanation has also been provided by the State.

Furthermore, it will be open for the trial court to go into the details of all these factual aspects at the appropriate stage.

Therefore, I do not find any infirmity in the manner in which the investigation is being carried on.

Accordingly, the writ petition is dismissed without any order as to costs.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

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

(Jay Sengupta, J)

SG