

18.07.2023
Item No. 17
BR

WPA 15820 of 2023

Sukesh Chandra Maity
-VS
State of West Bengal & Ors.

Mr. Arun Kumar Maity,
Mrs. Kaberi Sengupta,
Mr. R.R.Mohanty,
Ms. Iqra Rahaman,
Mr. Sumit Shaw,
Ms. Komal Shaw,
Ms. Snigdha Ghosh,
Mr. Shivam Saha
.... For the petitioner

Mr. Wasim Ahmed,
Sk. Md. Masood
.... For the State

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authorities to hand over the original Pharmacist Registration Certificate No. D-23326 dated 10th July, 2014 issued by the Registrar of West Bengal Pharmacy Council to the petitioner and to consider the petitioner's complaint dated 1.5.2023

so that the same may be treated as First Information Report.

Affidavit of service filed by the petitioner in Court today is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner was issued the Registration Certificate on 11.2.1978. That was renewed till 31.12.2018. In May 2019 the proprietor of Deys' Medical gave proposal to give a photo copy of the pharmacy certificate. Surprisingly, on 10.5.2019 the Drug Control Officer took the original certificate and lodged an FIR against the petitioner. He was arrested and later granted on bail. When the petitioner had met the Drug Control Officer he had asked for bribe. On 1.5.2023 the petitioner made these allegations by way of letter of complaint before the police authorities and also prayed for return of the registration certificate. But no action has been taken on such letter.

Learned counsel appearing on behalf of the State submits as follows. Investigation has already culminated

in a charge sheet in this case. If the petitioner wants to pray for registration of another FIR he has to do the same by way of filing an application under Section 156(3) of the Code provided other conditions are made.

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

It appears that the investigation has already culminated in a charge sheet. Therefore, the regular criminal Court is in seisin of the matter. As such, it would not be proper for this Court to intervene in the matter with the application for return of articles like the registration certificate. The petitioner shall be at liberty to make an application before the learned trial Court.

If the petitioner is aggrieved with the non-registration of an FIR despite a cognizable offence being made out and in spite of approaching the police authorities as per law, it shall be open to the petitioner to make an application before the regular

Magistrate in terms of Section 156(3)
of the Code.

No further order need be passed.

With these directions, the writ
petition is disposed of.

Urgent photostat certified copy
of this order if applied for be given to
the parties as expeditiously as possible.

(Jay Sengupta, J.)