

22 01.08.2023
NB Ct. 14

WPA 16531 of 2023

Smt. Banasri Mondal
Vs.
The State of West Bengal & Ors.

Mr. Ranojoy Chatterjee,
Mr. Tamal Singha Roy.
...for the petitioner.

Mr. Malay Singh,
Ms. Neelam Singh.
....for the State.

Mr. Ayan Bhattacharjee,
Mr. Suman Majumder.
...for the respondent no.5.

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authorities, first, to draw a suitable disciplinary proceeding against the respondent no.5 and secondly, to register an FIR against the respondent no.5 for committing offences of having pictures and videos of the petitioner taken without her permission by his junior officials.

Affidavit of service filed on behalf of the petitioner is taken on record.

Despite service, no one appears on behalf of the private respondent no.6.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the wife of a social and RTI activist. Because of his incessant fight against the illegal activities in the locality, several false cases have been instituted

against him and his wife. The police have colluded in this. Some police personnel purportedly under the direction of the respondent no.5 came to the residence of the petitioner and collected some photographs and videos of the petitioner without her consent. This amounts to a cognizable offence for which an FIR should be immediately registered.

Learned counsel appearing on behalf of the private respondent denies such allegations and submits that the petitioner and her husband have been making such baseless allegations and several other matters had to be disposed of without passing any order in favour of the petitioner or her husband.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Two police personnel from the Bally Police Station had, in fact, gone to the residence of the petitioner to serve summons in connection with a criminal case pending before the learned Chief Judicial Magistrate, Howrah. For keeping a further proof of service, one of the officers took a photograph of the petitioner's son accepting the summons. No further photograph or video was made whatsoever. Reliance is also placed on a pendrive which purportedly contains a video from the local CCTV regarding the exchanges between the parties on that particular day. There are several cases pending against the petitioner and her husband.

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

Taking photograph and keeping it on as a proof of service is not a regular mode of effecting service. The police authorities should desist from doing so unless authorised by a Court of law.

However, the petitioner has not been able to substantiate her claims by producing any material in support of her contentions and prayers.

On the contrary, the respondent authorities have prima facie been able to give an explanation about the sequence of events.

Therefore, I find no material to interfere with the proceeding.

Accordingly, the writ petition is disposed of.

There shall, however, be no order as to costs.

The respondent authorities shall nevertheless keep a sharp vigil at the locale and see that no breach of peace takes place.

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

(Jay Sengupta, J.)