

08 10.08.2023
NB Ct. 14

WPA 17658 of 2023

Mohon Lal Bandopadhyay & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Payel Shome,
Ms. Sampriti Saha.
...for the petitioners.

Mr. Amitesh Banerjee,
Ms. Ipsita Banerjee,
Mr. Tarak Karan.
....for the State.

Mr. Tanmay Chowdhury,
Ms. Ritoprita Ghosh.
...for the respondent nos.8 & 9.

Ms. Papiya Banerjee
...for WBPCB.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to ensure that the petitioners can stay at their residence without being troubled by excessive nuisance and to initiate appropriate legal proceedings in respect of the illegal activities of the private respondents.

Report filed by the State is taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The private respondents are operating a factory near the residence of the petitioners without necessary license. They are creating such disturbances and nuisance that it has become impossible for the nearby residents like the petitioners to stay safely and peacefully. No consent has been taken from the Pollution Board or authorities. When the

petitioners raised protest, the private respondents started harassing and intimidating the petitioners. Despite seeking assistance, the police have rendered help.

Learned counsel appearing on behalf of the private respondent submits as follows. The private respondents have got necessary permissions like the certificate under the Shops and Establishment Act. No permission from the Pollution Control Board is necessary for the kind of work done there. It is actually a small shop where only a small machine is used for assembling wooden furniture.

Learned counsel appearing on behalf of the Pollution Control Board submits that they had forwarded the complaint to the police in this regard made by the petitioner. According to the learned counsel, the factory comes within the green category and there is a requirement of obtaining consent from the Pollution Control Board.

Learned senior standing counsel representing the State relies on the report and submits as follows. So far as the issue of requirement of consent is concerned, the matter may be dealt with before the appropriate forum. On the allegations that there were threats, intimidations by the private respondents, the police have initiated a proceeding under Section 107 of the Code. Upon enquiry, it appears that at present the shop/factory is not operating. Enquiry has also revealed that some work was being done of metal articles.

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.

It appears that it is the allegation of the petitioners that the petitioners were being harassed by the private respondents because they had raised protest for the illegal running of a factory at nearby premises. It further appears that the police have already taken steps by initiating a proceeding under Section 107 of the Code.

The police shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

So far as the issue of pollution is concerned, the petitioners shall be at liberty to move an appropriate application under a proper classification list for necessary relief.

In view of the same, no further order need be passed in this case.

The writ petition is, therefore, disposed of without any costs.

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

(Jay Sengupta, J.)