

16.08.2023
SL-08
Ct.11
(S.R.)

WPA (H) 43 of 2023
Mirajuddin Naiya
v.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Imtiaz Akhtar
Mr. Sandipan Das
Mr. Dipankar Das
Mr. Badrul Karim ... for the Petitioner.

Mr. Debabrata Chatterjee, Ld. APP
Ms. Amrita Panja Moulick ... for the State.

Mr. Kushal Chatterjee
Mr. Tanhib Khan ... for the Intervener.

The present writ petition has been preferred primarily praying for the following relief: -

‘(b) A writ in nature of Habeas Corpus directing the men/agents/sub ordinates of the concerned authorities to produce the body of the petitioner’s father in the Court of Law;’

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the petitioner’s father, namely, Amman Naiya (in short, Amman) contested the panchayat election held on 8th July, 2023 and was elected as a candidate belonging to CPI(M). Surprisingly thereafter, Amman suddenly went missing from his residence on and from 13th July, 2023. Such fact was reported by the petitioner to the respondent no.8 on 24th July, 2023. However, no steps were taken by the police authorities to recover Amman and aggrieved thereby, the petitioner approached this Court.

When the matter was last taken up for hearing on 9th August, 2023, Mr. Chatterjee alleged that Amman had been illegally detained by the members of the ruling political party and that, he may be forced to cast his vote in favour of the ruling political members in the election of Pradhan and Upa-pradha in Shankarpur Gram Panchayat (in short, the said Panchayat) on 9th August, 2023.

Upon hearing Mr. Chatterjee on 9th August, 2023, we directed the investigating officer being the respondent no.8 to be personally present before this Court today along with a detailed report as regards the steps taken on the basis of the petitioner's complaint along with a copy of the alleged written declaration stated to have been executed by Amman.

Pursuant to such direction, the respondent no.8 is personally present before us today. Mr. Debabrata Chatterjee, learned advocate appearing for the State has also placed before us a report dated 16th August, 2023 prepared by the said respondent no.8. Let the same, as produced, be kept on record.

With our leave, Mr. Kushal Chatterjee, learned advocate appears on behalf of Amman and denies the allegations as levelled by the petitioner in the *habeas corpus* petition.

We have heard the learned advocates appearing for the respective parties and considered the materials on

record.

In the report filed by the investigating officer it has, *inter alia*, been stated that after the complaint was lodged by the petitioner, Amman himself attended Dholahat Police Station and met with the investigating officer and submitted a written declaration on 2nd August, 2023 stating, *inter alia*, that he had neither been kidnapped nor confined and none had allured or threatened him. The said representation dated 2nd August, 2023 has been annexed to the report. Amman is also personally present before this Court today and Mr. Kushal Chatterjee, upon instruction, submits that he is presently residing at his residence at Village - Pachani, Police Station - Dholahat, District - South 24 Parganas. Let the xerox copy of the Aadhaar Card, as produced, by Amman who is present in Court, be kept on record.

In the said conspectus and as we do not find any material on record to infer that Amman had been illegally detained, no further interference is called for in the present *habeas corpus* petition and the same is, accordingly, disposed of.

Nothing herein shall, however, prevent the petitioner from initiating proceedings before any other Court or forum, seeking relief, if so advised and in accordance with law.

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

Urgent Photostat certified copy of the order if applied for, be made over to the parties as expeditiously as possible.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)