

19.04.2023
KC(4)

WPA 28242 of 2022
Prabir Kumar Chanda and Ors.
-versus-
State of West Bengal and Ors.

Mr. Jayanta Narayan Chatterje,
Md. Yonus Mondal,
Mr. Mukul Biswas.....For the petitioners.
Mr. Tulsidas Roy.....For the State.
Mr. Arun Kumar Maity(Mohanty),
Mr. Bibekananda Sinha Roy.....For the C.B.I.

The grievance of the writ petitioners in this writ application is that diverse criminal cases arising out of their alleged involvement in the ponzi scam are pending in different courts in West Bengal and that defending them is becoming increasingly arduous and inconvenient for them. Hence, a writ of mandamus is prayed for, for consolidation of all these cases and their trial in one or more designated courts, close to one another.

On the writ application being moved to consider the prayers in it, we directed the learned Registrar General and the learned Registrar (Judicial Service) to file a report before us regarding the status of the courts, their jurisdiction and our power to consolidate cases in them.

Accordingly, on 4th April, 2023 the following report was furnished to us by the learned Registrars:

“Re : WPA 28242 of 2022 (Prabir Kumar Chanda & Ors. Vs. The State of W.B. & Ors.)

In compliance with Your Lordships' solemn Order dated 27.03.2023 in the above-referred matter, whereby your Lordships were pleased to direct the undersigned to file a short report as to whether this Hon'ble court under the existing Law can pass an order effecting transfer of the PONZI Scam cases pending in different courts in West Bengal as stated in the Writ Petition. Accordingly, in compliance with such direction of your Lordships the following facts are placed before this Hon'ble Court in the form of report for perusal and consideration.

The Court of **Chief Metropolitan Magistrate (CMM) or Additional Chief Metropolitan Magistrate, 2nd Court, Calcutta (ACMM 2), is designated by the Hon'ble High Court, Calcutta vide resolution of the Administrative Committee Meeting dated 21.12.2022, under Item No. 4. (Annex.-'A'), for conducting trial of Chit Fund Cases for the entire state of West Bengal**, in place of the Court of the 18th Metropolitan Magistrate, Calcutta, as resolved in the Administrative Committee Meeting dated 04.07.2019, under Item No. 6. **(Annex.-'B')**, on the basis of request made by the CBI authorities.

The Registry has already moved the state government vide letter no. 571-RG dated 31.01.2023 **((Annex.-'C')** for taking necessary action and the same is complied with by issuance of Gazette **Notification no. 69-JD/X dated 04.04.2023** by the Judicial. Deptt, Govt. of West Bengal thereby designating the aforesaid courts for conducting trial of Chit Fund Cases.

It is important to note that the CBI authority had proposed for creation of such special courts **(placed collectively as Annex.-'D')** for conducting trial of Chit Fund Cases pursuant to the direction of Hon'ble Supreme Court vide order dated 09.05.2014 passed in Writ Petition (Civil) No. 401 of 2013 (Subrata Chatteraj – Vs- Union of India & Ors) with Writ Petition (C) No. 402 of 2013 and T.P (C) No. 445 of 2014 and Writ Petition (C) No.413 Of 2013, (Alok Jana-Vs- Union of India & Ors. with Writ Petition (C) No. 324 of 2014 as well as direction of the Hon'ble High Court at Calcutta vide order dated 19.06.2013 in W.P No. 12163(W) of 2013 (Basabi Rai Chowdhury-Vs-Union of India & ors) with WP No. 12974(W) of 2013 (Narendra Prasad Gupta-Vs- The State of West Bengal & Ors) and WP No. 12197 (W) of 2013 (Anindya Sundar Das & Ors –Vs- Union of India & Ors). The Hon'ble High Court at Calcutta by order dated 19.06.2013 in the aforesaid Writ Petitions was pleased to specifically direct as follows with regard to creation of Special Courts for conducting Chit Fund Cases;

'The State would issue appropriate direction at the appropriate level, if necessary, taking the assistance of the court of law for

consolidation of the cases and establish and or cause to establish special court in consultation with the High Court administration so that all cases relating to Saradha could be heard by one Special Court having power to take cognizance, frame charges and conduct sessions. It would be a Court for all purpose as far as practicable.”

It inter alia appears from this report that as early as on 19th June, 2013 this court had directed the State Government to issue appropriate directions in consultation with the high court to establish such courts and for consolidation of the cases relating to Sharada to be heard by them.

We find that the prayer of the petitioners is well founded. Other accused, similarly situated would also stand to benefit if the cases are consolidated.

In that view of the matter we direct the State Government to carry out the order dated 19th June, 2013 immediately, within eight weeks of communication of this order.

We add that in addition to Sharada cases, the courts so empowered would also be competent to try all cases relating to the ponzi scam in West Bengal.

This writ application is disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

