

13.02.2024
Item no.8, 9.
Court No.6.
AB

**M.A.T. 312 of 2024
IA CAN 1 of 2024**

With

**M.A.T. 311 of 2024
IA CAN 1 of 2024**

**Uma Mondal
Vs
The State of West Bengal & Others**

Mr. Probal Mukherjee, Sr. Adv,
Ms. Sonali Das,
Mr. Dhananjoy Banerjee....for the Appellant.

Mr. Mritunjoy Goswami,
Mr. Arijit Sarkarfor the State in
MAT 311 of 2024.

Mr. Nabhajit Prasad Basu,
Mr. Arindam Mitrafor the State in
MAT 312 of 2024.

Mr. Suddhasatya Banerjee,
Mr. Nigam Ashish Chakraborty,
Mr. Agniva Banerjee,
Mr. Anujit Mookherji
.....for the Respondent No.6.

Since common questions of law and fact are involved in these two appeals, we take up the appeals for hearing analogously and dispose of the same by this common order.

In these two appeals, an order dated 2.2.2024 passed in WPA 27623 of 2023 and WPA 27681 of 2023 by a learned Judge of this Court has been impugned. For effective disposal of the instant appeals, the facts leading to filing of WPA 27623 of 2023 and WPA 27681 of 2023 by the respective writ petitioners, who are the

respondent no.6 in the respective appeals, are required to be dealt with in a nutshell.

The writ petitioners, who are the private respondents in these appeals, were aggrieved by stop-work notices issued by the present appellant, being the Pradhan of the concerned Panchayet, though initially, the writ petitioners were given permission to raise construction. It was argued on behalf of the writ petitioners, before the learned Single Judge that such stop-work notices are illegal, mala fide and, accordingly, the petitioners prayed for issuance of Writ of Mandamus for declaring the impugned notices as null and void, with a further prayer for issuance of Writ of Prohibition preventing the present appellant from taking any further steps in terms of the said notices of stoppage of work.

In course of hearing, Mr. Mukherjee, learned Senior Advocate appearing for the appellant, at the very outset, submitted before this Court that for reasons best known to his client, she, who is the appellant before us, did not appear before the learned Single Judge.

Mr. Mukherjee further drew attention of this Court to the orders dated 1.2.2024 and 2.2.2024 (impugned herein). It was contended by Mr. Mukherjee, learned Advocate, that in the aforesaid two orders, there is no iota of material to substantiate that his client, who is the appellant before us, had

demanding bribe as was verbally submitted by learned Advocate for the writ petitioners before the learned Single Judge. It was thus submitted that during the pendency of the said two writ petitions, direction upon the Police Authority to lodge first information reports was passed in undue haste, which has caused serious prejudice to the rights and interests of the present appellant and the same is violative of the principles of natural justice.

Mr. Mukherjee further submitted that even in the writ petitions, there is no allegation by the writ petitioners as regards alleged demand for bribe by the appellant, as verbally submitted before the learned Single Judge. Mr. Mukherjee further submitted that since the present appellant, being the Pradhan of the concerned Gram Panchayet, found some infraction of Rules regarding the concerned construction, the stop-work notices were issued and those are bona fide in nature.

Per contra, Mr. Banerjee, learned Advocate appearing for the respondents no.6/writ petitioners also places reliance upon the orders dated 1.2.2024 and 2.2.2024 passed by the learned Single Judge. It was contended by Mr. Banerjee that the learned Single Judge was completely justified in passing the impugned order thereby directing the Police Authority to register first information reports since in course of hearing, sufficient materials were placed to justify, at

least prima facie, that a huge amount of bribe was demanded from his clients by the present appellant for paying the same to some influential person whose name cannot be disclosed for the safety and security of his clients. Mr. Banerjee, however, submitted that in the event the Court desires, such name can be disclosed by way of supplementary affidavit.

On perusal of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties, we are of the considered view that while passing the impugned order, the learned Single Judge has sufficiently protected the interest of the private respondents herein in raising their construction which is evident from paragraphs 7, 8, 9 and onwards of the impugned order.

So far as paragraphs 3 to 6 of the impugned order is concerned, we are of the view that before the learned Single Judge, prima facie there was no material to substantiate the allegation of demand for illegal gratification and/or bribe by the present appellant at least at this stage. Thus, in our considered view, paragraphs 3 to 6 of the impugned order thus deserve our interference.

In view of the discussion made hereinabove, we set aside the direction of the learned Single Judge passed in the writ petitions as recorded in paragraphs 3 to 6 of the impugned order dated 2.2.2024. It is

made clear that by setting aside the aforesaid portions of the impugned order, we are not preventing the learned Single Judge from taking similar such steps in course of disposal of the aforesaid two writ petitions, if situation so demands.

In view of setting aside of paragraphs 3 to 6 of the impugned order dated 2.2.2024 passed in WPA 27623 of 2023 and WPA 27681 of 2023, the first information reports lodged against the present appellant on the basis of the impugned order, are also quashed.

At the time of disposal of the two writ petitions, preferably upon exchange of affidavits, the learned Judge is requested not to be influenced by any observation in this order and to take an independent decision on the basis of material disclosed before the learned Judge.

Although we have interfered to a limited extent, we have been given no sufficient explanation as to why the appellant did not appear before the learned Single Judge when the impugned order was passed. It is not her case that she was not put on notice. We do not appreciate such conduct. The appellant shall pay costs assessed at Rs.20,000/- to the private respondents herein in equal proportion.

With the aforesaid observations and directions, the appeals and the connected applications stand disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)