

06.08.2024

DL-1

(Dd)

WPA(H)/46/2024

**Meharun Bibi
VS
State of West Bengal & Ors.**

Mr. Ranjit Kr. Roy,
Mr. Sk. Raju Ahmed, Advocates
... .. For the Petitioner

Mr. Rana Mukherjee, APP
Ms. Amrita Panja Moulick, Advocates
... .. For the State

Ms. Anamika Pandey, Advocate
... ..For the respondent no. 8

1. Mother of the missing person is before us in this habeas corpus writ petition.

2. Learned advocate appearing for the writ petitioner submits that, son of the petitioner was a 'Sepoy' of the Indian Army. Son of the petitioner was admitted to the Command Hospital at Kolkata. He went missing from there.

3. Learned advocate appearing for the petitioner draws the attention of the Court to the averments made in the writ petition. He submits that, son of the writ petitioner was subjected to mental torture by the unit at which the son of the petitioner was posted. He submits that, son of the writ petitioner is yet to be recovered.

4. Writ petition is being heard after completion of affidavits. State respondents filed an affidavit through

the Sub-Inspector of Alipore Police Station. Union of India also used an affidavit-in-opposition. Writ petitioner used affidavit-in-reply to the two affidavits-in-opposition.

5. In the affidavit filed by the State, the Sub-Inspector of Police states that, initially, on receiving the missing diary from the writ petitioner, police went to the Command Hospital to look into the Close Circuit Television (CCTV) footage. Initially, such footage was not provided. Thereafter, a notice under Section 91 of the Criminal Procedure Code was issued when CCTV footage was provided. CCTV footage shows that the son of the writ petitioner left the Command Hospital voluntarily.

6. Learned advocate appearing for the State submits that, inquiries were conducted at different levels and on different dates with regard to the son of the writ petitioner. He refers to the reports submitted in Court from time to time. He submits that, on elaborate inquiry, State found that, the son of the writ petitioner was in the habit of engaging in gambling online. He took loan from ICICI Bank in excess of Rs.10 lakhs. He obtained loans from colleagues and other persons.

7. Learned advocate appearing for the Union of India submits that, Indian Army followed the process laid down with regard to a 'Sepoy' not reporting for duty unauthorisedly. She submits that, as on date, the son of the writ petitioner stands declared as a deserter.

8. Son of the writ petitioner is yet to be recovered. He is an adult. He was a 'Sepoy' in the Indian Army. He went missing on June 1, 2024 from the Command Hospital. He got himself admitted at the Command Hospital for treatment.

9. There is no contemporaneous complaint in writing disclosed or placed on record that the son of the writ petitioner was subjected to any mental torture by his unit. Rather, materials placed on record suggest that son of the writ petitioner indulged in online gambling. He also took loan both from Bank and private persons. Bank loan was in excess of Rs.10 lakhs. He was not repaying those loans.

10. CCTV footage obtained from by the police from the Command Hospital suggests that the son of the writ petitioner left the Command Hospital voluntarily.

11. As noted above, son of the writ petitioner is an adult. Materials placed on record suggest that he left the Command Hospital voluntarily.

12. In such circumstances, we are not minded to pass any further orders in exercise of jurisdiction under Article 226 of the Constitution of India in a writ petition of habeas corpus.

13. This order will not prevent the private parties from availing of their remedies before the appropriate forum in accordance with law.

14. WPA (H) 46 of 2024 is **disposed of** accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)