

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

Present: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

W.P.A 18644 of 2024

Reserved on : 14.08.2024
Pronounced on: 03.09.2024

Steel Authority of India Limited & Anr.

...Petitioners

-Vs-

The State of West Bengal & Ors.

...Respondents

Present:-

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Anirban Day
Mr. Dwip Raj Basu

... for the Petitioners

Mr. Swapan Banerjee
Mr. Sougata Mitra

... for the State

Mr. Pradyumna Sinha
Mr. Sannidhya Datta
Ms. Anjali Roy

...for the respondent nos. 7 & 10

Rajarshi Bharadwaj, J:

1. The instant writ petition has been preferred by Steel Authority of India Limited herein the petitioner company challenging the inaction of police authorities deployed at Kulti Police Station in investigating the case being Kulti P.S. Case No. 467 of 2023 dated 31.08.2023 registered at the same.

2. The facts of the case in a nutshell is that the Board of Indian Iron Steel Company Limited (IISCO) let out for 33 years a hostel building measuring approximately 0.5 acres to Priyadarshini Educational Society, herein the School Society for the purpose of establishing a secondary school through a lease deed dated 19.11.1992. Thereafter, the secretary to the school society, herein respondent no. 10 resisted the handover of the aforesaid property on the expiry of the lease, citing a subsequent lease deed executed by Mr. Rajib Kumar, herein respondent No.8 and Mr. Krishna Kumar Tiwari, herein respondent no.7, which extended their occupation for a further period of 33 years.

3. Learned counsel appearing for the petitioner company submits that the Board of IISCO that had approved the lease deed dated November 19, 1992, ceased to exist as a separate entity when it merged with the petitioner company in 2006, and consequently, did not have the power to authorize the respondent No.8 to execute the subsequent lease deed, renewing possession in favour of the school society. Moreover, as the Board of the petitioner company did not ratify such document no record of the same appears in the petitioner's records. The petitioners disputing the authenticity of the subsequent lease deed and alleging criminal conspiracy by respondent Nos. 7-10 lodged a written complaint dated 31.08.2023 before the Officer-in-Charge, Kulti Police Station which led to registration of an F.I.R. being Kulti P.S. Case No. 467 of 2023 dated 31.08.2023 under Sections 420/406/467/ 468/471 /409/120B of IPC.

4. Learned counsel submits that immediately upon learning about such proceeding being initiated against the School Society, the Society filed a writ petition being WPA No. 22009 of 2023 challenging the proceeding which is awaiting a final determination. Thereafter, respondent No.7 filed a complaint before the Kulti Police Station on 14.10.2023 stating that after a careful examination of the purported lease deed, he found that his signature has been

forged and his photograph, fingerprints and name have been fraudulently issued in the lease deed. However, no action was taken by the police authorities against the instant complainant and no endeavours were made to seize the document or record the statement of respondent No.8.

5. Learned counsel submits that the police authorities have been directed by the learned Single Judge by an order dated 12.10.2023 that “the investigation of the case would proceed. However, no coercive step would be taken against the petitioner provided the petitioner co-operate with the investigating agency”. The police’s egregious violation of the order compelled the petitioner to file several representations to the investigating officer, Kulti P.S. herein respondent No.5, Deputy Commissioner of Police herein respondent No. 4 and Officer-in-Charge herein respondent No.3 furnishing relevant documents and requesting to cause seizure of the forged documents. Despite the case being instituted 11 months ago, the police have taken no steps to address the dispute concerning the fraudulent document or furnish a progress report.

6. Learned counsel refers to order dated August 9, 2023 (**XXX Vs. State of West Bengal & Ors.**), order dated November 24, 2021 in WPA 16862 of 2021 (**Tania Parvin Vs. State of West Bengal & Ors.**) and order dated December 5, 2023 in WPA 21993 of 2023 (**Palash Debnath Vs. State of West Bengal & Ors.**) of the co-ordinate Bench of this Hon’ble Court to strengthen the prayer that a fair and impartial investigation be conducted by transferring investigation to a specialized agency.

7. Learned counsel appearing for the respondent Nos. 7, 9 and 10 submits that the investigation of the case should not be transferred to any other police station/division as it may lead to practical difficulties and relies upon the case of **Naresh Kavarchand Khatri Vs. State of Gujarat & Anr.** reported in **2008 (8) SCC 300**, where the Hon’ble Supreme Court ruled that the High Court’s power to interfere with police investigation is circumscribed and can only be

exercised in cases where the investigating officer lacks jurisdiction; additionally, the Court should abstain from interfering in the early stages of investigation.

8. Learned counsel appearing for the State authorities submits that upon registration of complaint being Kulti P.S. Case No. 467/2023 dated 31.08.2023 investigation was entrusted to S.I. Parimal Biswas attached to Kulti P.S. Prior to the investigation being transferred to S.I. Budhadev Gain on 30.01.2024, S.I. Parimal Biswas took necessary steps to proceed with the investigation by serving notice under Section 91 of the Cr.P.C. and seizing the original disputed lease deed, recording statements of Mr. Pradip Roy, being the witnesses to the impugned deed and respondent no. 7 under Section 161 Cr. P.C. As respondent no.8 failed to appear before the police authorities to give a specimen signature and thumb impression, a letter bearing his signature was seized for further investigation.

9. Heard the parties at length and perused the reports.

10. It has been held by a co-ordinate Bench of this Hon'ble Court in **Palash Debnath Vs. State of West Bengal & Ors.** (WPA 21993 of 2023) that if investigation is not done properly and materials are not collected during investigation, Trial Court can hardly do anything to unearth the real truth. Regarding the authority of this Court to determine the present petition, the Hon'ble Supreme Court in **Pooja Pal Vs. Union of India & Ors.** reported in **(2016) 3 SCC 135**, **K. Saravanan Karuppasamy Vs. State of Tamil Nadu & Ors.** reported in **(2014) 10 SCC 406** and **State of West Bengal & Ors. Vs. Committee for Protection of Democratic Rights** reported in **(2010) 3 SCC 571** reiterated that if deficiency in investigation is visible or the reality of the investigation is covered by obvious deficiency, the Writ Court may be justified in such circumstances to transfer the investigation to an independent investigating agency.

11. Notwithstanding the specific direction for the continuation of the investigation as per the order dated 12th October, 2023, the police authorities have demonstrated gross inefficiency and negligence in the conduct of their investigation, thereby allowing the unauthorized operations of the school to continue unchecked. The authorities have failed in their legal obligations by neglecting to submit the requisite prayer before the Learned Chief Judicial Magistrate at Paschim Bardhaman for the recording of statements under Section 164 of the Code of Criminal Procedure, with the sole exception of one witness, Pradip Roy.

12. Moreover, the authorities have failed to appreciate the gravity of the matter, which involves the defrauding of public funds and assets from a Government Company. No necessary actions were taken, such as forwarding the Lease Deed dated December 28, 2012 to the Forensic Science Laboratory or the Questioned Document Examination Bureau for authentication. Additionally, key documents and bank records, crucial for tracing the financial transactions, remain unseized and unscrutinized.

13. Furthermore, the petitioners' miscellaneous application seeking a progress report on the investigation has revealed that important witnesses, including respondent Nos. 7 and 9, have not been interrogated. Despite respondent Nos. 8 and 9 lacking any legal protection against coercive measures, the authorities have shown a lack of diligence in apprehending them. In addition, the authorities have disregarded critical findings from the Internal Inquiry Committee meeting of SAIL held on 4th September, 2023, which indicated potential collusion among the company's officers. Despite subsequent complaints lodged against the accused for similar fraudulent activities, no effective steps have been taken.

14. It has been held by Hon'ble Supreme Court in **Pooja Pal (Supra)** that:

"The observations and the propositions, though made in the backdrop of a request for retrial, those pertaining to the essentiality of a fair and

complete investigation and trial as well as the solemn duty of the courts to ensure the discernment of truth to administer even handed justice as institutions of trust of public faith and confidence, are in our estimate, of universal application and binding effect, transcending the factual settings of a case. An adverse deduction vis-à-vis the quality of investigation and a trial trivialising the cause of justice, is however the essential prerequisite, for such remedial intervention by way of further investigation, reinvestigation, additional evidence, retrial, etc. to be made objectively but assuredly for the furtherance of the salutary objectives of the justice dispensing system as contemplated in law, it being of paramount pre-eminence.”

15. In light of the above and for the reasons stated herein, it is imperative that this case be transferred to an impartial investigating agency. Given the scope and complexity of the fraud, it is hereby directed that the Detective Department of the Asansol Durgapur Commissionerate assume responsibility for the continuation of the investigation in this matter.

16. The Investigating Officer is directed to hand over the case diary to the Detective Department, Assansol Durgapur Commissionerate to investigate Kulti P.S. Case No. 467 of 2023 registered at Kulti Police Station.

17. With the above directions, the writ petition being WPA 18644 of 2024 is disposed of.

18. Urgent Photostat certified copies of this judgment, if applied for, be supplied to the parties upon fulfillment of requisite formalities.

(RAJARSHI BHARADWAJ, J)

Kolkata

03.09.2024

PA (BS)