

D/L 63
17.12.2024
Kausik
ct.no.35

W.P.A. 22399 of 2023

**Sri Sujit Nag
Versus
Union of India & Ors.**

Mr. Saurabh Guha Thakurata
Ms. Nilanjana Sarkar
Mr. Abhratanu Sarkar

...for the petitioner.

Mr. Amal Kr. Sen, AGP
Mr. Lal Mohan Basu

...for the state.

Petitioner has approached this court with prayer to direct the respondent no. 3, that is the Enforcement Directorate to register an ECIR on the basis of the complaint of the petitioner dated 23.08.2023 and other consequential acts which are basically to the effect that Enforcement Directorate should take up the investigation of the case.

Status report was sought for from the state. State is also continuing with the investigation for ascertaining the proceeds of crime and the distribution thereof.

The subject matter of the case involves providing job at All India Institute of Medical Sciences, Kalyani for which the complainant collected

money and gave it to different persons and finally he was handed over with fake appointment letters.

At this stage, after charge sheet has been submitted also, state is carrying on with ascertainment of facts by engaging chartered accountants. The same prima facie do not seem to be complete. The investigation of the case started in the year 2022.

In view of the proceeds of the crime still not being identified by the investigating agency, I am of the view that it would be the discretion of the Enforcement Directorate whether to accept or not to accept any case.

Learned advocate for the petitioner has also relied upon the judgment of the Hon'ble Supreme Court in *Y. Balaji Vs. Karthik Desari & Anr. Etc.* reported in 2023 Live Law (SC) 440 which lays down the law relating to the genesis of the initiation of the cases by the Enforcement Directorate, the introduction for ascertaining proceeds of crime and money laundering. I do not find the present case having any application to the ratio decided in the case so cited.

It is reiterated it would be for the Enforcement Directorate to decide independently whether they intend to take up this case or not. This

court will not direct the Enforcement Directorate to take up the case as the complained offence is a scheduled offence and the Enforcement Directorate within the premises of law are empowered to take up the investigation without being directed by a court of law.

With the aforesaid observations WPA 22399 of 2023 is disposed of.

Report submitted today be returned to Mr. Sen, learned advocate appearing for the state.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)