

**Court No. 8
01.08.2025**

**(Item No. 44
PA (Chamber))**

WPA (P) No. 591 of 2022

**Aninda Sundar Das
Vs.
State of West Bengal & Ors.**

1. None appears for the parties. Upon perusing the records it appears that the issue involved herein is of serious in nature. For the interest of justice the following order is passed.

2. In the instant public interest litigation the petitioner prays inter alia for the following relief(s):-

“a) Issue a Writ of and/or Writs in the nature of Certiorari directing the respondents each one of them, their men, agents and assigns to transmit to this Hon’ble Court the records of the case, herein, so that conscionable justice may be administered by perusing the same.

b) A Writ of and/or in the nature of Mandamus thereby directing the respondent Central Bureau of investigation to take cognizance of the complaint made by the petitioner investigate upon the same and bring the persons responsible behind the scam under the domain of law;

c) A Writ of and/or in the nature of Mandamus thereby directing the respondent Enforcement Directorate to take cognizance of complaint lodged by the petitioner and investigate upon the same and bring the persons connected with such money laundering under the domain of law;

d) Rule NISI in terms of prayers above;

e) Any other appropriate Writ or Writs:

f) An interim order restraining the respondent university authorities specially the respondent nos. 3,4 and 9 from acting in her official capacity so that

the evidence/records relating to the present scam could be necessary for the purpose of investigating by central agencies;

g) An interim order directing the respondent universities specially the respondent nos. 7 and 8 forthwith take all evidences/records relating to the present scam in their custody so that a proper investigation could be conducted and the real culprits are brought to books;

h) Ad-interim orders in terms of prayer hereinabove;

i) Costs of and incidental to this petition be borne by the respondents;

j) Such further or other order or orders be passed and/or direction or directions be given as this Hon'ble Court may deem fit and proper."

3. Apropos the facts of the case is precisely that the respondent university authorities in connivance with the private respondents extorted an excess amount of rupees 2 lakhs in cash from the colleges for renewal of affiliations in spite of there being some deficiencies existing in the said colleges. The respondent university from the private respondents also extorted rupees 15,000/- for affiliation of each additional subjects which were to be added in the course of the colleges and also for the recommendation of each subject teacher the respondent university and the private respondents had taken rupees 30,000/- on account of each teacher from respective colleges. All these amounts were taken in cash in the name of the colleges for

which no receipts of these amount were issued to the colleges. The scam involves money laundering as orchestrated by the erring/delinquent persons and their stooges, tarnishing the image of the entire educational system.

It is further submitted that several representations have been made to the respective higher authorities regarding the scams but till date no action has been taken against such unscrupulous persons involved in the malpractices of sham transaction.

4. The main bone of contention of the writ petitioner is for taking cognizance of the huge illegal and unethical monetary transaction by the different law enforcing agencies such as CBI and Enforcement Directorate in respect of the complaints lodged against the erring private respondents.

5. it is also further submitted that the mass petition filed by the petitioner before the different strata of the Government authorities till date no effective measures and/or steps have been taken to take cognizance of such mal practices/misdeeds of the unscrupulous persons.

6. The point involved in this case is no more re Integra. The question cropped up before a Division Bench of the Hon'ble Supreme Court in the case of **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage & Ors.** Reported at **(2016) 6 SCC 277** as to

whether the remedy under Article 226 of the Constitution of India can be availed if there exists inaction of Police in registering the FIR in relation to a cognizable offence. The Apex Court drawn the curtains on the said aspects in the following words.

“2. This Court has held in Sakiri Vasu v. State of U.P., that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If such an appointment under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the mater. We have said this in Sakiri Vasu case because what we have found in this country is that the High courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.”(emphasis supplied)

Thereafter, a Division Bench of Madhya Pradesh High Court again dealt with this aspect by

considering the Constitutional Bench judgment of Hon'ble Supreme Court in the case of:

- **Lalita Kumari v. Government of U.P. reported at (2014) 2 SCC 1 and in**
- **Aleque Padamsee v. Union of India reported at (2007) 6 SCC 171**
- **Sakiri Vasu v. State of U.P. reported at (2008) 2 SCC 409.**

Thus, person aggrieved must resort to the remedy provided under a particular statute.

After considering the above judgments, speaking for the Bench, Hemant Gupta, J. (as His Lordship then was) opined as follows:-

“The Constitution Bench in Lalita Kumari (supra) was considering the question as to whether registration of an FIR is mandatory, in case it discloses a cognizable offence. If the information does not disclose a cognizable offence, it mandates to conduct a preliminary enquiry. But, there is no mandate in the aforesaid judgment that his Court under Article 226 of the Constitution of India should issue a direction for registration of an FIR. Such a question has been specifically answered in Aleque Padamsee (supra), Sakiri Vasu (supra) and Sudhir Bhaskar Rao Tambe (supra).” (Emphasis Supplied)

In view of the authoritative pronouncement of the Hon'ble Supreme Court and the division Bench

of the Madhya Pradesh High Court on the above aspect, no writ of mandamus/direction can be issued for lodging of FIR and/or appointing any law enforcing agencies to probe into the scam/malpractices involved herein for proper investigation of the same. The petitioner has an efficacious remedy under the criminal law. Hence the PIL cannot be entertained.

However, liberty is reserved to the petitioner to avail remedy under the criminal law. It is made clear that this Court has not expressed any opinion on the merits of the case.

(SUJOY PAUL, J)

(SMITA DAS DE, J.)