

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

W.P.A. 5255 OF 2026

**ASHABRATA SARDAR AND ANOTHER
VS.
THE STATE OF WEST BENGAL AND OTHERS**

Dr. Siddhartha Goswami, Adv.
Mr. Soumyadeep Das, Adv.
Ms. Upasana Shaw, Adv.
Ms. Soumi Sardar, Adv.
...for the Petitioners

Ms. Sabnam De Bardhan, Jr. Govt. Adv.
Ms. Subhasri Chatterjee, Adv.
...for the State

Mr. Sounak Bhattacharya, Adv.
Mr. Sounak Mandal, Adv.
Ms. Bipasha Bhattacharyya, Adv.
...for the Private Respondents

1. Affidavit-of-service filed on behalf of the petitioners is taken on record.
2. It is submitted by the learned advocate representing the petitioners that based on a complaint dated 6th January, 2026 concerned police authorities did not register FIR and initiated criminal proceedings thereby prompting the petitioners to approach jurisdictional Magistrate under Section 175 of BNSS seeking order for causing investigation. It is submitted that the Magistrate in consideration of application under Section 175(3) of BNSS called for report from the police authorities.
3. It is also contended on behalf of the petitioners that private respondents are causing hindrance in ingress and egress of the petitioners as a result whereof

petitioners have approached this Court with the present writ petition seeking necessary direction upon the concerned police authorities. It is further submitted that subject to final consideration of application under Section 175(3) of BNSS by the Magistrate an order may be passed on this writ petition protecting the right of the petitioners.

4. State respondents and private respondents are represented by learned advocates.
5. It is submitted on behalf of the private respondents that the allegations levelled by the petitioners are misplaced and such allegations are disputed.
6. It appears from the submissions made on behalf of the petitioners that an application under Section 175(3) of BNSS is pending before the jurisdictional Magistrate and a report from the concerned police authorities is called for.
7. In addition thereto it is open to the petitioners to approach the jurisdictional Magistrate under Section 210(1)(c) of BNSS as the Magistrate based on information received from the petitioners is empowered to take cognizance of any offence.
8. Therefore, it is not the appropriate stage to approach this Court with the present writ petition during

pendency of application under Section 175(3) of BNSS before the jurisdictional Magistrate.

9. In this regard reliance is placed on the judgment of the Hon'ble Supreme Court reported in **(2007) 6 SCC 171 (Aleque Padamsee and others vs. Union of India and others)**. This Court finds it apt to quote paragraph 8 of **Aleque Padamsee** (*supra*), which runs *infra*:

“The writ petitions are finally disposed of with the following directions:

- (1) *If any person is aggrieved by the inaction of the police officials in registering the FIR, the modalities contained in Section 190 read with Section 200 of the Code are to be adopted and observed.*
- (2) *It is open to any person aggrieved by the inaction of the police officials to adopt the remedy in terms of the aforesaid provisions.*
- (3) *So far as non-grant of sanction aspect is concerned, it is for the Government concerned to deal with the prayer. The Government concerned would do well to deal with the matter within three months from the date of receipt of this order.*
- (4) *We make it clear that we have not expressed any opinion on the merits of the case.”*

10. In aforesaid conspectus no relief can be granted to the petitioner.
11. Writ petition stands dismissed.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)