

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble The Chief Justice SUJOY PAUL
&
The Hon'ble Justice PARTHA SARATHI SEN

MAT 1691 OF 2023
With
I.A. NO. CAN 1 OF 2023

ALOKE KR. GHOSH
-Vs-
STATE OF WEST BENGAL & ORS.

For the Appellant:	Mr. Bijoy Adhikari, Adv., Mr. Supriyo Ghosh, Adv. Ms. Susmita Adhikari, Adv.,
For the State:	Mr. Suddhadev Adak, Adv.,

Hearing concluded on:	10.02.2026
Judgment on:	25.02.2026

PARTHA SARATHI SEN, J. : –

1. In this intra-Court appeal the order dated 03.02.2023 as passed by the learned Single Bench of this court in WPA 27131 of 2022 is assailed at the instance of the writ petitioner.
2. At the time of hearing Mr. Adhikari, learned Advocate appearing on behalf of the writ petitioner/ appellant at the very outset draws attention of this Court

to the copy of the writ petition being WPA 27131 of 2022 as filed before the learned Single Bench. It is submitted that from the prayer portion of the said writ petition it would reveal that the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent nos. 2 to 4 authorities commanding them to act in accordance with law on the basis of the written complaint dated 25.06.2022 (Annexure- P3) of the writ petition by registering the same as an FIR and to proceed thereafter in accordance with law.

3. It is submitted by Mr. Adhikari that in the written complaint dated 25.06.2022 the informant/ writ petitioner/ appellant herein had disclosed commission of cognizable offence at the instance of the private respondent no.5.
4. It is further argued by Mr. Adhikari that the learned Single Bench while passing the impugned order though noticed that the said written complaint contains an allegation regarding procurement of Schedule Caste Certificate at the instance of the respondent no. 5 by unlawful means even then the said Court declined to grant any relief to the writ petitioner in terms of the prayer made in the said writ petition.
5. It is thus submitted by Mr. Adhikari that the impugned order may be set aside by granting appropriate relief/ reliefs as prayed for by the writ petitioner.
6. Such prayer is however opposed by Mr. Adak by saying that in absence of any infirmity there cannot be any justification to interfere with the order impugned.

7. We have meticulously gone through the entire materials as placed before us. We have given due consideration over the submissions of the learned advocates for the contending parties.
8. On perusal of Annexure- P3 of the writ petition being a copy of the written complaint dated 25.06.2022 as lodged with the Officer-in-Charge of the jurisdictional police station (respondent no. 4 herein), it reveals that it has been stated therein by the writ petitioner that the respondent no. 5 by unlawful means procured Schedule Caste Certificate and by dint of such certificate he has got a job in the State Bank of India, though the respondent no. 5 does not belong to Schedule Caste category. At this juncture, if we look to the prayer made in the writ petition, it reveals that the writ petitioner/ appellant has approached the learned Single Bench with a prayer for issuance of appropriate writ against the respondent nos. 2 to 4 commanding them to register the said written complaint dated 25.06.2022 as an FIR and thereafter to proceed with the investigation in accordance with law.
9. In order to arrive at a logical conclusion as to whether the writ petitioner is at all entitled to the said relief, we at the very outset propose to look to the judgment as passed by the Hon'ble Supreme Court in the case of ***Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and Others*** reported in ***(2016) 6 SCC 277*** wherein the Hon'ble Supreme Court expressed the following view:

"This Court has held in Sakiri Vasu v. State of U.P. [(2008) 2 SCC 409], 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) Cr.P.C. 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”

10. This Bench in the judgment of Sourav Mitra Vs. Swati Chakraborty Bhattacharya and Ors. reported in 2025 SCC OnLine Cal 9425 has also taken similar view by holding that for non-registration of FIR by a police authority on the basis of a complaint, the appropriate forum is not the High Court.
11. In view of the proposition of law as decided by the Hon’ble Supreme Court in the case of **Sudhir Bhaskarrao Tambe (Supra)** and as has been followed by us in the case of **Sourav Mitra (Supra)**, we thus find that the Hon’ble Supreme Court practically deprecated the practice of approaching High Court with a prayer for issuance of appropriate writ/writs against the police authorities in the event a person has grievance that his FIR has not been registered by the police.
12. Such being the position we are of the considered view that the writ petitioner is not entitled to the main relief as well as the other ancillary relief as prayed for.
13. However, keeping in mind that in the impugned order, the learned Single Bench has made some observation with regard to applicability of the SC and ST (Prevention of Atrocities) Act, 1989 we make it clear that in the event the

writ petitioner approaches the appropriate authority/ forum for ventilating his grievance, the observation made by the learned Single Bench in its order dated 03.02.2023 as passed in WPA 27131 of 2022 will not stand in its way and the said authority is at liberty to consider the grievance of the writ petitioner in accordance with law without being influenced by any of the observation as made by the learned Single Bench in its impugned order dated 03.02.2023.

14. With the aforementioned observation MAT 1691 of 2023 is disposed of. Before parting with we however make it clear that while disposing of the instant appeal we have not gone with the merits of the written complaint dated 25.06.2022 as submitted by the writ petitioner with the respondent no. 4 authority.
15. With the disposal of the instant appeal all pending interlocutory applications are also disposed of.
16. Urgent photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

I agree.

(SUJOY PAUL, C.J.)

(PARTHA SARATHI SEN, J.)