

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

**The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya**

WPA No.1368 of 2025

Rajarshi Biswas and others

-Versus-

The State of West Bengal and others

For the petitioners	:	Mr. Bikramaditya Gosh, Mr. Bhaskar Roy Mahasaya, Mr. Mayank Bhandari, Mr. Ved Rail, Mr. Vivek Saha, Mr. Binayak Bandyopadhyay, Mr. Hrisav Anirban Ghosh, ... Advs.
For the State	:	Mr. Jagriti Mishra, AAAG, Ms. Esha Acharya, Adv.
For the respondent no.8/ High Court Administration	:	Mr. Sourav Ganguly, Adv.
Heard on	:	10.06.2026 & 11.06.2026
Reserved on	:	11.06.2026
Judgment on	:	19.06.2026

Sabyasachi Bhattacharyya, J.:-

1. The present writ petition has been preferred by some members of the Jalpaiguri Bar Association in West Bengal, challenging two Notifications

issued by the Government of West Bengal, respectively dated January 30, 2025 and February 10, 2025.

2. By an earlier Notification dated September 9, 2019, the State Government had constituted a Special Task Force (STF) in West Bengal Police, with headquarters at Kolkata, headed by an officer of West Bengal Police in the rank of Additional Director General of Police. In pursuance of the said Notification, the subsequent Notification dated January 30, 2025 was issued, whereby two locations as mentioned therein were specified as local areas of two police stations created for the purposes of investigation of the offences mentioned in the schedule given therein. The said two police stations were respectively STF Head Quarters Police Station situated at Salt Lake, Kolkata and STF, Siliguri Police Station located in New Jalpaiguri. The local area of the Salt Lake Police Station, pertaining to its jurisdiction, was extended by the said Notification over several Districts of West Bengal, spread over the southern part of the State whereas in respect of the Siliguri Police Station, the northern Districts were allocated as local area. The offences to be investigated by the STF through the said Police Stations were as under:

- (i) Offences as mentioned under Chapters VII, X and Section 113 of the Bharatiya Nyaya Sanhita, 2023 (BNS);
- (ii) The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act);
- (iii) The Arms Act, 1959;
- (iv) The Unlawful Activities (Prevention) Act, 1957 (UAPA);

- (v) The Explosives Act, 1884;
- (vi) The Explosive Substances Act, 1908;
- (vii) The Prevention of Money Laundering Act, 2002 (PMLA).

3. As a follow-up of the Notification dated January 30, 2025, by another Notification dated January 31, 2025, several posts were created to man the said two police stations.
4. By the subsequent Notification dated February 10, 2025, on the other hand, the said two STF Police Stations were brought under the respective jurisdictions of criminal courts as mentioned therein for the trial of such specific offences. Whereas the STF Headquarter Police Station at Salt Lake was brought under the jurisdiction of the ACJM, Bidhannagar and ADJ Special Court, West Bengal (MP and MLA cases) at Bidhannagar, North 24 Parganas as trial court for conducting trial of all sessions cases, the ACJM Siliguri and ADJ-II at Siliguri, Darjeeling were designated as the trial courts for conducting trial of all sessions cases for the STF Siliguri Police Station.
5. The present challenge has been preferred to the validity and legality of the said two Notifications dated January 30, 2025 and February 10, 2025.
6. At the outset, the matter was moved before the Bench of a learned Single Judge of the Jalpaiguri Circuit of this Court, which was pleased to release the matter on the ground that none of the Benches in the Circuit has the jurisdiction to take up Public Interest Litigations (PIL) and to direct the writ petition to be transmitted to the Principal Bench and be placed before the Hon'ble The Chief Justice for passing necessary orders and directions.

- 7.** When the matter was placed before the Hon'ble The Chief Justice, it was observed that the learned members of the Bar are the writ petitioners wherein the challenge has been made to a Notification conferring power on a particular Court to consider cases where investigation is being conducted by the Special Task Force. The Hon'ble The Chief Justice further ordered that considering the wider ramifications that may arise, the writ petition shall be heard by the regular Division Bench in the Circuit at Jalpaiguri and may not be required to be treated as a Public Interest Litigation.
- 8.** Pursuant to the said direction of the Hon'ble The Chief Justice, being the Master of the Roster, the matter was placed before this Bench and is being taken up for hearing.
- 9.** Although the State takes an objection as to the matter not being a Public Interest Litigation (PIL) in view of the personal interest of the Jalpaiguri Bar pleaded therein, in view of the above direction of the Hon'ble The Chief Justice, even without treating the writ petition as a PIL, the same has been placed before this Bench. Thus, such objection has been rendered academic. At the same time, the wider ramifications of the outcome of the writ petition, as recognised by the Hon'ble The Chief Justice himself, are to be taken into consideration, since whichever way the writ petition is decided, the effect would be widespread, having impact throughout the State of West Bengal.
- 10.** When the matter was first heard by the Division Bench after being remitted by the Hon'ble The Chief Justice, an interim order was passed on August 2, 2025, whereby the operation of the two impugned Notifications was stayed for a limited period.

- 11.** The said order was challenged before the Hon'ble Supreme Court in Special Leave to Appeal (C) No.26152 of 2025. By an order dated September 22, 2025, the Hon'ble Supreme Court was pleased to stay the operation of the interim order dated August 2, 2025, with the observation that the High Court need not wait for the outcome of the proceedings before the Supreme Court for the purpose of final adjudication of the writ petition, with a further request to the High Court to take up the writ petition for final disposal soon after the Durga Pooja Holidays. It was further observed that the observations by the High Court in the interim order dated August 2, 2025 or the fact that the Hon'ble Supreme Court had stayed operation of that order shall have no bearing on the merits of the case.
- 12.** In pursuance of the said observations, the matter has been placed before this Bench for final hearing and is being taken up for such purpose at the earliest thereafter.
- 13.** Citing the above observations of the Hon'ble Supreme Court, the learned AAAG, appearing for the State, submits at the outset that this Bench ought not to be influenced by the observations made in the interim order or the findings therein. We assure the learned AAAG that we shall neither look into the said interim order, nor refer to the same in any manner, for the purpose of the present adjudication. Even apart from the direction of the Hon'ble Supreme Court, it is well-settled that observations made at the ad interim stage, where immediate exigencies for the purpose of grant of interim order are involved, are tentative in nature and not binding at the final hearing of the writ petition on merits.

14. Learned counsel appearing for the petitioners argues that the parent Notification dated September 9, 2019, which created the STF, does not confer any exclusive jurisdiction to it that excludes the general police force, nor does it clearly outline the exact powers and functions of the STF regarding specified offences. It is argued that a reading of Section 2 of the Police Act, 1861 and Section 2 of the Bengal Police Act, 1869 reveals that neither provision grants the State the power to create a specialised force within the police establishment. Therefore, the State's authority to establish the STF and grant it specific investigative powers remains questionable.
15. Learned counsel further argues that the offences designated for investigation by the STF Police Stations under the January 30, 2025 Notification varies from the class of offences stipulated in the parent 2019 Notification.
16. It is further contended by the petitioners that under Section 2(1)(u) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the State has the power to declare a post or place as a police station. However, the provision does not authorise the State to consolidate multiple entire districts under a single special police station when those Districts already have functioning police stations exercising valid jurisdiction. Learned counsel submits that the term "local area" in Section 2(1)(u) of the BNSS cannot rationally be stretched to encompass several Districts but actually means the territorially local and geographical location of the area of the police station, not any area of the State which can be randomly selected by the State. The power to declare special police stations, it is argued, should only supplement or aid existing local police stations and not override them.

17. The petitioners next submit that the State heavily relies on Section 2(1)(n) of the BNSS where the term “local jurisdiction” has been used; however, the said provision was not invoked in the Notifications themselves; rather, an attempt has been made at the instance of the State to camouflage their acts to perform something which is contrary to the substantive provisions of the Sanhita. In criminal law, it is argued, jurisdiction is primarily determined by territoriality – where the offence was committed, the consequences ensued or where the victim/property was found, in terms of Section 197 and Chapter XIV of the BNSS. Merely because the STF Police Stations are physically located within Bidhannagar and Siliguri, it does not legally authorise the specific local courts to try offences committed in entirely different Districts.
18. The Notifications, it is argued, are also violative of Section 175(1) of the BNSS, since it effectively abrogates the investigative powers of an Officer-in-Charge (OC) of a Police Station which is linked to the territorial jurisdiction of a court having jurisdiction over the local area.
19. The State’s power under Section 205 BNSS, it is submitted, is not unfettered and cannot confer jurisdiction arbitrarily. Hence, the State’s attempt to confer jurisdiction upon two specific courts, merely on the ground that two STF Police Stations fall within their territorial limits, is legally unsustainable.
20. Learned counsel for the petitioners further contends that by the impugned Notifications, the Executive branch of the State cannot alter or establish jurisdiction via Notifications without explicit Legislative delegation. Thus, it

is argued that the impugned Notifications amount to usurpation of Legislative functions by the Executive.

- 21.** The conferment of jurisdiction upon two specified courts within whose jurisdiction the said STF Police Stations are situated, it is argued, is violative of the BNSS. Courts otherwise not having jurisdiction would be conferred with the same if the Notifications are allowed to subsist.
- 22.** The BNSS, it is contended, explicitly defines the various parameters based on which the jurisdiction of the courts are taken. The same has been sought to be bypassed by the Executive proposal mooted in the impugned Notifications. It is argued that the proposal effectively strips away the inherent original jurisdiction of courts in other Districts and confers the same on two specific courts. Such act falls within the domain of core Legislative power that cannot be sub-delegated to the Executive. Furthermore, it is contended that the Notifications are inconsistent and contradictory to the parent Act, that is, the BNSS.
- 23.** Learned counsel next submits that Section 508, BNSS contains savings provisions dealing with proceedings initiated in the wrong place. However, like Section 462 of the predecessor statute, that is, the Code of Criminal Procedure (Cr.P.C.), it operates *post facto* and cannot confer jurisdiction on a court which otherwise lacks it.
- 24.** Section 2(1)(n) of the BNSS strictly relates to Sections 12 and 16, concerning Magistrates and Executive Magistrates, and cannot be applied in such a manner which is not intended or expressed by the legislature.

- 25.** Lastly, the petitioners submit that the proposal would create an arbitrary dual system. An offender arrested by the general police force would be treated under standard procedures, whereas an offender apprehended by the STF for the same offence would receive different treatment. This, it is argued, lacks intelligible differentia or rational basis and is violative of Article 14 of the Constitution of India.
- 26.** Learned counsel appearing for the High Court Administration makes a limited submission. It is argued that there are other instances of designation of specified courts, such as Section 36(2) of the NDPS Act and Section 43 of the PMLA. Both the said provisions contemplate concurrence of the Hon'ble The Chief Justice of the High Court.
- 27.** Similarly, as per Section 7 of the BNSS, the State Government, after consultation with the High Court, may alter the territorial area of sessions divisions and criminal courts can be established accordingly. The Hon'ble The Chief Justice being the head of the High Court Administration, had sufficient authority to act in the matter and accord necessary permission to the State to publish the impugned Notifications.
- 28.** Learned counsel further cites the instance of MP/MLA Special Courts, which have been constituted for the trial of offences committed by the MPs or MLAs in the State, which is also otherwise contrary to the provisions of the West Bengal Criminal Law (Amendment) Act, 1949, which is an offence-centric statute.
- 29.** The State, represented by the AAAG, reminds the court at the outset that the earlier ad interim order passed by this Court stands effaced for all

practical purposes in view of the remand order of the Hon'ble Supreme Court and this Court is now required to consider the matter *de novo* on its own merits, uninfluenced by the ad interim order dated August 2, 2025.

- 30.** The provisions of the Police Act, 1861 and the Bengal Police Act, 1869 (hereinafter referred to as “the 1861 Act” and “the 1869 Act” respectively) are heavily relied on by the learned AAAG, in particular Section 2 of each of the said statutes. According to the State, in terms of the Section 2 of the 1861 Act, the entire police-establishment under a State Government is statutorily deemed to be one unified police force, meaning that the STF is not a separate or parallel force but merely a specialised unit within the same West Bengal Police. It is argued that the foundational provision embodied therein is complemented by Section 2 of the 1869 Act, which expressly empowers the State Government to divide the State into as many general police districts as it may think fit and to vary, alter or consolidate them without any geographical limitation.
- 31.** The STF, it is submitted, was constituted *vide* Notification No.621-PB dated September 9, 2019. The said foundational Notification is not under challenge and the initial recruitment pursuant thereto has also not been assailed. It is submitted that only the expansion of manpower vide the 2025 Notification has been challenged in the present writ petition.
- 32.** Learned AAAG places reliance on different Notifications of other States to show that specialised police units have been created and function to resolve specific criminal challenges conferred on them.

- 33.** The second limb of argument of the State is that under Section 30 of the BNSS, superior officers have State-wide powers. There is a fundamental structural difference, it is argued, between an ordinary Police Station and the STF. While a normal Police Station is headed only by a Special House Officer (SHO) of Inspector/Sub-Inspector rank, the STF Siliguri Police Station is headed by a Deputy Superintendent of Police, whereas the STF Siliguri Branch is headed by a Superintendent of Police and the STF as a whole is commanded by an Additional Director General of Police. In terms of Section 30, superior ranked officers are empowered to exercise the functions of inferior officers. As such, there is no bar in the creation of the STF Police Stations under the supervision of superior officers.
- 34.** It is next argued that the petitioner's challenge to the Notification under Section 2(1)(u), BNSS is misconceived because even if the "local area" of the physical STF Police Stations were assumed not to extend across the whole of North Bengal, that issue does not control the STF's actual investigative authority. The operational powers of the STF flow from Section 30, BNSS. Thus, the challenge on the basis of Section 2(1)(u) is not directed at the real source of authority used by the STF in practice.
- 35.** The objection with regard to Article 14 of the Constitution is weak, it is contended, because the classification is based on the nature of the offence, not any arbitrary yardstick.
- 36.** The STF is meant to handle special offences which are materially different from ordinary local crimes, which itself provides a clear intelligible differentia, the rational nexus being the need for swift, specialised

investigation in serious national security cases, where centralised handling helps prevent loss of evidence, witness drift and fragmentation of the case.

- 37.** Insofar as the objection regarding access to justice is concerned, under the currently prevalent zero-FIR principle, reflected in Section 173 of the BNSS, a person, for example in Cooch Behar, need not travel to Siliguri just to set the criminal law in motion. The local Police Stations can receive the information, which can then be moved to the appropriate STF unit. Thus the real issue is not physical access to the Police Station but which agency should investigate after the FIR is recorded.
- 38.** Lastly, it is contended that under Section 7 of the BNSS, the State may alter territorial divisions after consultation with the High Court. On such count, the State has nothing further to say except the fact that such consultation was done in the present case and is on record.
- 39.** Upon considering the arguments of the parties at length, it is reiterated at the outset that in deference to the observation of the Hon'ble Supreme Court as well as following the principle that ad interim findings are tentative and not binding at the final hearing stage, this Court neither looks into nor refers to any observations of the ad interim order. It is for such purpose that all the parties were invited to advance fresh arguments, which they have done and have filed brief written notes accordingly, which is the sole basis of the present consideration. Thus, such apprehension of the State is allayed at the outset.
- 40.** Regarding the objection taken by the State as to the present writ petition not being maintainable as a PIL, as already discussed above, in terms of the

direction of the Hon'ble the Chief Justice, in view of the wide ramifications involved, the matter has been assigned to the Division Bench operating in the Jalpaiguri Circuit of this Court without, however, treating the same as a PIL. Thus, there is no question of the writ petition being considered as a PIL. Nonetheless, the objections raised in the writ petition have serious connotations and, even as per the direction of the Hon'ble the Chief Justice, are to be decided finally by this court.

41. There are two facets to the present challenge - the creation of specific Police Stations assigned to the STF under the January 30, 2025 Notification, and linking such Police Stations with the Courts having local jurisdiction over the areas of the Police Stations *vide* Notification dated February 10, 2025. The said components of the challenge are being dealt with separately below:

Creation of Courts

42. This issue deals with the February 10, 2025 Notification, whereby the courts having territorial jurisdiction over the two STF Police Stations have been vested with the power to adjudicate all cases, respectively from the northern and the southern districts of West Bengal as a whole, if those are covered by the investigative powers of the two STF Police Stations.
43. The first ingredient which is to be considered in this regard is the statutes which have been brought within the purview of the concerned police stations and consequentially, the courts of the ACJM, Bidhannagar and ADJ Special Court, West Bengal (MP and MLA Cases) at Bidhannagar, District - North 24 Parganas for the districts falling roughly in the southern part of West Bengal

and the Court of the ACJM, Siliguri and ADJ-II at Siliguri, District – Darjeeling, insofar as the northern part of the State are concerned.

- 44.** Let us consider the said statutes individually to find out what is the regime of Courts contemplated in the said statutes themselves.
- 45.** The first of such statutes, which have been brought within the purview of the STF Police Stations and the connected Courts, is the BNS, in particular Chapters VII and X and Section 113 thereof.
- 46.** Chapter VII deals with offences against the State and covers Sections 147 to 158 of the BNS. Chapter X, on the other hand, deals with offences relating to coins, currency, notes, bank-notes and Government stamps, encompassing Sections 178 to 188, whereas Section 113 of the BNS deals with terrorist acts.
- 47.** Under the First Schedule of the BNSS, Section 113, BNS offences are triable by a Sessions Court, whereas Chapter-VII, insofar as it relates to Sections 147 – 156 and 158 of the BNS, vests jurisdiction in the Sessions Court and insofar as offences punishable under Section 157 of the BNS are concerned, confers jurisdiction on the First Class Magistrate to adjudicate such cases.
- 48.** Cases coming under Chapter X (Sections 178 to 181) of the BNS are to be decided by the Sessions Court, Sections 183, 185, Sections 187 and 188 by a First Class Magistrate and Sections 182, 184 and 186 of the BNS by any Magistrate.
- 49.** It is noteworthy that the BNSS already specifies that all classes of Courts, including the Courts designated for hearing the above matters, shall operate within their respective local jurisdictions, which have already been

delineated by the State. Section 197, BNSS stipulates that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

- 50.** Coming to the second statute designated to the STF, that is, the NDPS Act, Section 36 thereof provides that the Government may create Special Courts for any area by Notification. It is to be noted that the State Government of West Bengal has already issued such Notifications and designated Special Courts for various districts.
- 51.** Insofar as the next statute, that is, the Arms Act is concerned, Section 2(d) thereof confers jurisdiction on the Commissioner of Police (including Deputy Commissioner of Police) to act as the District Magistrate for the area specified by the State Government. Commissioners of Police have already been appointed by the State, notifying their pre-existing local area jurisdictions.
- 52.** Section 5, read with Schedule II, of the Arms Act provides that the licensing authority shall be the authority specified therein, including the Central Government, etc., and in some cases, District Magistrates. Thus, there is already a set-up in place insofar as hierarchy of Courts/District Magistrates are concerned, to adjudicate offences under the said statute.
- 53.** Again, the UAPA, under Section 2(c), refers to the Cr.P.C. as the “Code” (by necessary implication, now the BNSS). Section 2(d) stipulates that “Court” is the criminal court having jurisdiction under the Cr.P.C. (now BNSS) to try UAPA offences and includes Special Courts under Sections 11 and 22 of the National Investigation Agency Act, 2008. Under Section 11 of the National

Investigation Agency Act, the Central Government, in consultation with the Chief Justice of the High Court, is to specify areas for a case or class or group of cases by Notification, whereas under Section 22, the State Government designates one or more Sessions Court(s) as Special Court(s). Section 15 of the UAPA defines a “terrorist act” in the manner broadly equivalent to the First Schedule of the BNSS. Thus, in terms of Section 2(d), the criminal court having jurisdiction under the Cr.P.C. (now BNSS) to try UAPA offences would broadly be the Sessions Court having territorial jurisdiction over the area of the offence.

- 54.** The next statute which has been brought under the purview of the impugned Notifications is the Explosives Act, Section 4(c) of which defines “District Magistrate” to be same as Section 2(d) of the Arms Act.
- 55.** The Explosive Substances Act, which is the next statute in line, under Section 7 thereof, provides that no Court shall proceed to undertake the trial of any person for an offence under the said Act except with the consent of the District Magistrate, thereby pre-supposing that the jurisdictional court under the said provision is to be subordinate to the District Magistrate. Any contrary interpretation would be absurd, since it would presuppose that even the District Magistrate or some judicial official above the District Magistrate in hierarchy shall have to take consent from the District Magistrate.
- 56.** The PMLA is the last statute brought under the impugned Notifications. Sections 7 and 8 thereof provide that the challenge against an action under the Act lies to the District Judge having territorial jurisdiction. Section 6

provides that the Adjudicating Authority under the said Act shall be designated by the Central Government and Section 49 provides the structure of such officials including the Director, etc., of the Adjudicating Authority.

- 57.** Section 51 of the PMLA stipulates that the power under the Act/Rules framed thereunder are to be exercised in accordance with the directions by the Central Government on the criteria of territorial area, classes of persons, classes of cases and other criteria specified by the Central Government.
- 58.** Thus, it is seen that all the statutes, the offences under which have been assigned to the STF Police Stations and the connected Courts by the impugned Notifications, already provide for Special Courts or designated Courts created by the State/Central Government under the said statutes or empowers existing Courts under the Cr.P.C. (now BNSS) regime to try such offences.
- 59.** Hence, the tying up of particular Courts having local jurisdiction over the STF Police Stations by the impugned Notifications is patently contrary to the already existing scheme under the said special statutes as well as the BNSS.
- 60.** The regime of Courts/authorities which are in place under the special statutes would be completely disrupted in the event the Notification dated February 10, 2025 is to subsist and a parallel conferment of jurisdiction on Courts would be permitted by Executive fiat, in the teeth of specific Courts having already been designated as per the said statutes, as determined by the Legislature. The effect would be that the Executive would then overthrow Legislative action merely by issuance of Notifications.

- 61.** Again, the general scheme under the BNSS, which has been recognized in some of the above specified statutes, as partially reflected in Section 197 of the BNSS, would also be jeopardised. Section 197, we may be reminded, provides that every offence shall ordinarily be inquired into and tried by the Court within whose local jurisdiction it was committed. Since local jurisdictions of all Courts in West Bengal have already been provided for and such Courts are already operational, the impugned Notification of February 10, 2025 would create anarchy in jurisdiction.
- 62.** The State has relied on Section 7, BNSS to justify the Notification. However, Section 7 operates in an entirely different field and contemplates that the State Government may, after consultation with the High Court, alter the limits or the number of sessions divisions and districts and/or divide any district into sub-division and may alter the limits or the number of such sub-divisions. The said Section speaks about every State being a sessions division or consisting of sessions divisions, each one of which shall, for the purpose of the BNSS, be a district or consists of districts.
- 63.** The fallacy in such argument of the State is firstly that there is already an arrangement of sessions divisions in place in the State of West Bengal. In the event the creation of Courts in terms of the impugned Notification dated February 10, 2025 is introduced, there would be a palpable overlap between such divisions. Moreover, by neither of the impugned Notifications has any district or division been created or altered or sub-divided but a completely new set of Courts have been created to cater two STF Police Stations. The said exercise is not under Section 7 of the BNSS at all.

- 64.** Secondly, sub-sections (2) and (3) of Section 7 contemplate consultation not with the “Chief Justice” (which some statutes and Constitutional provisions do recognize) but the “High Court”. Hence, such consultation has to be with the High Court as a whole and is not with the Hon’ble The Chief Justice alone. The argument advanced by the High Court Administration, that the Hon’ble The Chief Justice, as the administrative head of the High Court, can exercise such power, is not tenable in the eye of law. The Constitution and several statutes recognize different sets of powers of the Chief Justice acting in such capacity and the High Court as a whole. The conscious use of the expression “High Court” clearly denotes that a decision in that regard shall have to be taken by the Court, sitting in Full Court, and not by the Chief Justice alone. The administrative powers of the Hon’ble The Chief Justice operates within his domain as the head of the administration of the High Court itself but not in the capacity of representing the High Court where the statute specifically confers the power on the High Court, as opposed to the Chief Justice.
- 65.** Sections 9 to 12 of the BNSS are also relevant in the context. Whereas Section 9 provides that in every district (pre-established) there shall be established as many Courts of Judicial Magistrates of the First Class and the Second Class as the State Government may, after consultation with the High Court, specify by Notification. Section 10 provides that in every such district, the High Court shall appoint a Judicial Magistrate of the First Class to be the Chief Judicial Magistrate who, in turn, subject to the control of the High Court, may from time to time define the local limits of the areas within

which the Magistrates functioning under him, as appointed under Sections 9 or 11, may exercise all or any of their powers which may respectively be invested under the BNSS. Thus, the limited scope of defining the local limits of jurisdiction of the Magistrates of the district is vested in the Chief Judicial Magistrate, under the control of the High Court. In the present case, however, it is not the concerned Chief Judicial Magistrates, under the control of the High Court, who have published the Notification or delineated the local limits of areas of the functioning of the Magistrates but the State. Hence, the said provisions, which are generally used as the source for investiture of local jurisdiction on Magistrates, has also not been invoked.

- 66.** Thirdly, an entirely parallel and overlapping jurisdictional hierarchy has been created by the February 10, 2025 Notification, which is patently contrary to the existing scheme of the BNSS.
- 67.** The next issue which should be flagged in this context is that the creation of a specialised sets of courts connected to two particular STF Police Stations would encourage forum shopping. The Notification throws it wide open for any ordinary offence to be embellished in the complaint as a notified offence under the Notification merely for the purpose of invoking the jurisdiction of the said particular Court of choice as stipulated under the Notification and vice versa.
- 68.** Moreover, if several offences under different Statutes are alleged against a person for the same set of acts, some of which come under the specified offences in the Notifications and some fall beyond them, the otherwise composite trial would have to be split into several trials, the specified

offences being subject to the jurisdiction of the specific courts under the Notifications whereas the other offences being tried by the ordinary courts having local jurisdiction. Such a split is absurd, unworkable and contrary to all norms of criminal jurisprudence. In fact, in order to obviate such difficulty, certain pieces of legislation, such as Section 28(2) of the Protection of Children from Sexual Offences (POCSO) Act, 2012, specifically provide that special/designated courts under the said Acts may try other offences falling beyond the purview of the said Act, if clubbed with offences under the Act. However, such a provision is required to be enacted by the Legislature and, in any event, is entirely absent in the present impugned Notification.

- 69.** Another issue which is required to be flagged is that although one of the reasons cited to justify the impugned Notifications is to facilitate smooth investigation in respect of the specified offences, the outcome of the Notifications would be diametrically counterproductive to such purpose. The designation of certain particular courts situated at Bidhannagar, North 24 Parganas and Siliguri for adjudicating all trials relating to offences coming under certain statutes throughout West Bengal would compel the complainants, witnesses and evidence to travel from all over West Bengal to the said particular courts situated in Bidhannagar and Siliguri. For example, a person prosecuting a trial from distant Sundarbans will have to come to a Bidhannagar Court to conduct such proceeding. All witnesses, who are normally found near the place of occurrence of the offence, have to travel all the way to Bidhannagar from Sundarbans and the articles seized would also have to be produced from the said areas to the Bidhannagar Court.

This would not only discourage ordinary citizens from initiating a complaint and prosecuting the trial in the first place as well as be a deterrent for witnesses to go all the way to adduce evidence, it would rather give a premium to middlemen and agenda/vendetta-driven complainants only, who have an axe to grind against the accused persons and are sufficiently motivated to traverse throughout the length and breadth of the State to prosecute the said accused. This, instead of encouraging more complaints under the said specified Acts, would operate as a deterrent to the same.

- 70.** In view of the above, there cannot be any manner of doubt that the impugned Notification dated February 10, 2025 is not only arbitrary and unworkable but also creates an anarchy in the existing scheme of the special statutes covered thereby as well as the territoriality connected to Courts in terms of the scheme envisaged under the BNSS.
- 71.** Learned counsel for the High Court Administration cites the designation of MP/MLA Special Courts to justify the impugned Notification.
- 72.** However, the Special Courts for trial of offences relating to MP/MLAs can be sourced to a judgment of the Hon'ble Supreme Court in *Writ Petition (C) No.699 of 2016 [Ashwani Kumar Upadhyay Vs. Union of India & another]*. Apart from the fact that the directions of the Supreme Court, both under Article 141 and 142 of the Constitution of India, operate as the law of the land and thus have legislative force behind them, the Hon'ble Supreme Court, while passing the directions-in-question, also recognized the existing hierarchy under the present criminal procedural law. In Paragraph No.20 of the said judgment, which sums up its directions, the Chief Justices of the

different High Courts were directed to register *suo motu* cases with a particular title to monitor earlier disposal of criminal cases pending against Members of Parliament and Legislative Assemblies, which cases were to be heard by the Special Bench presided by the Hon'ble The Chief Justices or Benches assigned by them.

- 73.** Thus, what was contemplated therein was Special Benches of the High Courts being created under the aegis of the respective Chief Justices to monitor disposal of the MP/MLA trials.
- 74.** The High Courts, it was further observed, may require the Principal District and Sessions Judge to bear responsibility of allocating subject-cases to such court or courts, consider appropriate and to call upon the Principal District and Sessions Judges to send reports at intervals which it considers expedient.
- 75.** However, throughout the said directions, it is clear that the Principal District and Sessions Judges of each of the districts were to monitor the MP/MLA cases at their level and would submit reports to the High Court which would then be taken up by the Special Bench designated by the Hon'ble The Chief Justice. Hence, no Special Courts contrary to the scheme of the BNSS were created by the said judgment but merely the respective districts were directed to create Special Courts within such districts, maintaining the hierarchy contemplated under the BNSS.
- 76.** In any event, subject-matter jurisdiction may be conferred even by the Chief Judicial Magistrates under the control of the High Court within the contemplation of Section 12 of the BNSS.

77. Accordingly, this issue is decided in favour of the petitioners, holding that the impugned Notification dated February 10, 2025 is violative of Article 14 of the Constitution of India, being based on no intelligible differentia to discriminate between complainants, witnesses and accused of different districts, who would have to come all the way to a few particular designated courts in two specific locations tied with the STF Police Stations, and suffers from unworkability and is also contrary to the scheme of the BNSS as well as the specific special statutes contemplated under the Notification. Moreover, the Notification tantamounts to Executive action attempting to override specific Legislative intent as expressed through different statutes.

Police Stations

78. Insofar as the challenge to the January 30, 2025 Notification is concerned, the same creates two specific police stations situated at Salt lake (Bidhannagar) and New Jalpaiguri, dedicated to the STF, a special force created within the police-establishment of West Bengal by the State Government.

79. The source of power for specifying local areas for police station flows from several statutes. Section 2(u) of the BNSS defines “police station” as any post or place declared generally or specially by the State Government to be a police station and includes any local area specified by the State Government in this behalf. The expression “such local area may comprise the whole of the State or any part of the State”, as used to define “local jurisdiction” in Section 2(1)(n) of BNSS for Courts or Magistrates, is conspicuous by its

absence insofar as Section 2(1)(u) is concerned. Thus, the post or place or local area specified by the State Government for a police station is, by necessary implication, restricted to the physical location of the police station.

- 80.** There are two other sources of power of the State to define the local areas of police stations. Insofar as Calcutta (now Kolkata) and its suburbs are concerned, Regulation 4 of the Police Regulation, Calcutta, 1968, is the repository of power for Calcutta and its suburbs to be divided into Divisions, Sub-Divisions, Sections and Sub-Sections for police-administration. The said provision, read with Section 51 of the Calcutta Suburban Police Act, 1866 and Section 3 of the Calcutta Police Act, 1866, categorically empower the police-administration to be divided into several divisions and other sub-compartments.
- 81.** For the other regions of West Bengal beyond Calcutta and its suburbs, Regulation 4 of the Police Regulations, Bengal, 1943 comes into play, which envisages division of the police administrative areas into a hierarchy of Range, District, Sub-Division, Circle and Police Station, in respective order of superiority. For example, a Range is comprised of a group of Districts, a District consists of several Sub-Divisions, and so on and so forth. In Regulation 4, it is further specified that the police station shall be the unit of investigation and may have outposts in certain case which, however, would not be the investigating centres.
- 82.** Deriving power from the said Legislative sources, the State has already put in place a division of police administration, having several sub-divisions.

- 83.** However, within the four corners of the 1943 Regulations, the 1968 Regulations and the BNSS or the 1866 Statutes, there is no provision for police stations being tied up to a particular section of the police-establishment. The reliance of the State on Section 1 of the Police Act, 1861 is misplaced, since the same merely contemplates a general police-district to embrace any Presidency, State or any part of the State as by the Act shall be order to take effect.
- 84.** By the impugned Notification dated January 30, 2025, it is not a police district which has been created but specific police stations, liked with particular sections of the police force.
- 85.** As cited by the State itself, Section 2 of the Police Act, 1861 itself stipulates that the entire police-establishment under a State Government, shall for the purposes of the Act, be deemed to be one police force and shall be formally enrolled. Thus, the STF cannot be treated to be a separate entity divorced from the rest of the police-establishment and be assigned separate and dedicated police stations, unlike any other division, department, company, or special force created within the police-establishment.
- 86.** Section 12 of the said Police Act stipulates that the Inspector General of Police may, from time to time, subject to the approval of the State Government, frame such orders and rules as he shall deem expedient relative to the organization, classification and distribution of the police force and the places at which the members of the force shall reside and the particular services to be formed by them, etc. Thus, the classification of the police force or its organization into different segments is permissible under

Section 12 of the Police Act. Chapter IX, starting from Regulation 611, of the 1943 Regulations, for example, created the Criminal Investigation Department (CID), in conjunction with Section 12 of the Police Act. However, notably, even a highly specialized crack force like the CID has not been assigned any particular and dedicated police station but has its own offices and has been empowered to investigate into certain serious offences assigned to it.

- 87.** Thus, the creation of the STF and its empowerment to investigate into certain offences of a serious nature by the first Notification dated September 9, 2019 cannot be held to be vitiated by any contravention of law. The creation of STF and its empowerment to deal with certain natures of offences was perfectly valid, being in accordance with Section 12 of the Police Act itself as well as within the ambit of the Police Regulations, Bengal, 1943 and the Police Regulations, Calcutta, 1968. Although the writ petitioners also argue against the State Government's powers to form the STF in the passing, such argument cannot be accepted.
- 88.** Be that as it may, the plinth of the challenge in the writ petitioner more to the tying up of specific police stations and courts with the STF, and not their formation *per se*.
- 89.** Thus, the argument of the State that the absence of challenge to the September 9, 2019 Notification would denude the petitioners from the *locus standi* to challenge the subsequent Notifications is unacceptable.
- 90.** The trouble started with the subsequent Notification, purportedly in pursuance of the initial Notification dated September 9, 2019. Up to the

September 9, 2019 Notification, the State acted completely within its statutory authority.

- 91.** However, the Notification dated January 30, 2025 created specific police stations dedicated to the STF, which is unknown to law. Section 2(1)(u) of the BNSS is merely the source of the State Government's power to specify the post, place or local area of a police station, which is invariably the physical location of the police station, and does not empower the State in any manner to assign particular police stations to a part of its establishment, be it the STF or the CID or any such specialised organisation within the police force. As referred to above, Section 2 of the Police Act itself contemplates the entire police establishment in a district to be one and, thus, a special police station cannot be assigned to any division or part of the entire police establishment separately.
- 92.** The next infirmity in the Notification dated January 30, 2025 is that local areas of police stations for all offences have already been created throughout the State of West Bengal and are already prevalent. Although new police stations may be created in particular places in consultation with the High Court, no statute empowers the State Government to create a parallel and overlapping set of police stations. If the Notification is to be sustained, there would be multiple police stations, being the local police stations having jurisdiction in the areas concerned all over the State of West Bengal as well as the particularly designated STF police stations, which will exercise parallel and co-extensive jurisdiction to entertain complaints and to carry those forward in trial to certain particular courts situated in two places in

West Bengal, for offences committed under the Acts specified in the Notifications, throughout the State. This, on a plain reading of all the aforementioned statutes, is not permissible in law. No statute empowers the Government (read Executive) to create any statute/offence-specific police stations or local areas of such police stations. To do so, a specific legislation is required.

- 93.** The State places much reliance on List-II (State List) under the Seventh Schedule of the Constitution of India. Serial Nos.1 and 2 of the State List respectively specify “Public Order in aid of civil powers” and “Police”. However, under Article 246(3) of the Constitution of India, it is the State Legislature which has the exclusive power to make laws for the State or parts of it with respect to any matter enumerated in List-II. Thus, it is the State Legislature, and not the State Government/Executive, which has been vested with the power to legislate on the subjects covered by the State List. Hence, the reliance of the State on List-II to justify Executive action is utterly misplaced.
- 94.** Another aspect of the State’s defence is that other States have published similar Notifications as the ones impugned herein, copies of which are handed over at the time of arguments. However, it is not clear as to the backdrop of the publication of such Notifications, nor is the source of power of the respective States to issue such Notifications disclosed. Thus, the abrupt citation of Notifications of other States, which may have completely different statutory and legislative background than the present case, does not aid the State of West Bengal in any manner in the present context.

- 95.** Secondly, even supposing that other States have published Notifications *de hors* the law or the Constitution, such erroneous action on the part of the said States, if any, does not clothe the State of West Bengal with power to commit a similar error. In the absence of any clear disclosure of the statutory backing behind the said Notifications of other States, having different geographical, demographical and law and order requirements, those do not justify *per se* the present impugned Notifications. After all, two wrongs do not make a right.
- 96.** Even otherwise, the impugned Notification of January 30, 2025 as well as the February 10, 2025 Notification are *de hors* the entire Scheme of the BNSS. For example, under Section 197 of the BNSS, every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it is committed. Again, Section 175 of the BNSS stipulates that any Officer-in-Charge of a police station may, without the order of the Magistrate, investigate any cognizable case which the court having jurisdiction of the local area within the limits of such police station would have power to inquire into or try under the provisions of the Chapter XIV. Such legislative scheme has been anarchized and completely thrown haywire by the impugned Notifications.
- 97.** As discussed above, the Notifications assailed before us are also palpably arbitrary and fraught with the potential of abuse, being thus unlawful, without any intelligible differentia and unconstitutional.
- 98.** The State has stressed much upon Section 30 of the BNSS to justify the creation of STF Police Stations. The said provision stipulates that police

officers who are superior in rank to an Officer-in-Charge of a police station may exercise the same powers throughout the local area for which they are appointed, as may be exercised by such officers within the limits of his station. Such co-extensive investiture of power is merely for exigencies of police administration. However, the same does not justify the creation of STF Police Stations in any manner. Even as per Section 30, the supervisory power of superior officers can be exercised within the framework of the local areas of the police stations which is already in place and the said provision cannot constitute the source of power to create new police stations, specifically designated to such superior officers.

- 99.** Moreover, by appointing a superior officer as the Station House Officer (SHO) of a police station, the very superiority of such officer is denuded and the superior officer is relegated to the rank of a subordinate officer. Under Section 30, superior police officers have supervisory power and may exercise the same power as they subordinate officers, being the officer-in-charge of a police station. By necessary logic, if a superior officer himself/herself is made the officer-in-charge of a police station, the very source of superiority is lost and the superior officer himself/herself becomes a subordinate officer, being in charge of the police station. Thus, Section 30, rather than coming to the aid of the State in justifying the Notification dated January 30, 2025, is patently contrary to the very spirit of Section 30. Lastly, as discussed above, the permission of the Hon'ble The Chief Justice does not validate an otherwise invalid and unlawful exercise of the State. Section 7 of the BNSS, as discussed above, contemplates the "High Court", as opposed to

the “Chief Justice” to be consulted. Moreover, the same is only in respect of creation of Sessions Divisions, and not to confer special powers *de hors* the already existing law.

100. Thus, this issue is also decided in favour of the petitioners, holding that the Notification dated January 30, 2025, creating special police stations for the STF, is *de hors* the law and unconstitutional.

CONCLUSION

101. In fine, this Court comes to the conclusion that the impugned Notifications dated January 30, 2025 and February 10, 2025 are bad in law, being unconstitutional, unworkable and contrary to the existing law. Consequentially, the January 31, 2025 Notification, creating posts to man the police stations created by the January 30, 2025 Notification is also vitiated.

102. Accordingly, WPA No.1368 of 2025 is allowed on contest, thereby setting aside Notification No.289-PL/PB/14M-162/19(Pt.-II) dated January 30, 2025, Notification No.298-PL/PB/14M-162/2019(Pt.-II) dated January 31, 2025 and Notification No.373- PL/PB/14M-162/2019(Pt.-II) dated February 10, 2025.

103. It is made clear that nothing in the above judgment shall be construed to affect Notification No. 2809-PL/PB/14M-162/19(Pt.-II) dated September 9, 2019, whereby the Special Task Force in West Bengal Police was constituted and assigned headquarters as well as offices. The STF shall carry on with the investigations in respect of the offences as enumerated in the said

Notification dated September 9, 2019 in an unfettered manner. However, the police station created in terms of the Notification dated January 30, 2025 shall stand immediately dissolved. The jurisdiction of the Courts shall be determined by the respective police stations where the complaints are lodged, in terms of the concerned special statutes as well as the BNSS, whichever is applicable.

104. There will be no order as to costs.

105. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)