

22.04.2022 and 13.05.2022 in W.P. (PIL) No.4290 of 2021 may be recalled, since the writ petition itself is not maintainable, and as such, the sealed cover may not be opened.

Mr. Tushar Mehta, learned senior counsel appearing for the Enforcement Directorate, has submitted that the documents have been submitted for perusal of the Court so that the materials, which have been surfaced during investigation by the Enforcement Directorate may be perused, since, it would not be appropriate, at this stage, to bring the documents on record, reason being that, the investigation is in progress, as such, disclosure of the documents would seriously hamper the progress of the investigation.

This Court has heard the learned counsel for the parties on the issue and thought it proper that the Court before proceeding to open the sealed cover, deem it fit and proper to decide the objection raised on behalf of the Respondent-State of Jharkhand.

We have heard the learned counsel for the parties.

The question, which is required to be decided by this Court at this stage, is as to whether the Court can look into the documents and materials produced by the prosecution before the Court without first confronting the accused with these materials.

The aforesaid issue fell for consideration before the Hon'ble Apex Court in the case of *P. Chidambaram-Vs.-Directorate of Enforcement* reported in *(2019) 9 SCC 24*, wherein, at paragraph 55, it has been laid down as hereunder:-

“55. The Enforcement Directorate has produced the sealed cover before us containing the materials collected during investigation and the same was received. Vide order dated 29-8-2019, we have stated that the receipt of the sealed cover would be subject to our

finding whether the court can peruse the materials or not. As discussed earlier, we have held that the court can receive the materials/documents collected during the investigation and peruse the same to satisfy its conscience that the investigation is proceeding in the right lines and for the purpose of consideration of grant of bail/anticipatory bail, etc. In the present case, though sealed cover was received by this Court, we have consciously refrained from opening the sealed cover and perusing the documents. Lest, if we peruse the materials collected by the respondent and make some observations thereon, it might cause prejudice to the appellant and the other co-accused who are not before this Court when they are to pursue the appropriate relief before various forum. Suffice it to note that at present, we are only at the stage of considering the pre-arrest bail. Since according to the respondent, they have collected documents/materials for which custodial interrogation of the appellant is necessary, which we deem appropriate to accept the submission of the respondent for the limited purpose of refusing pre-arrest bail to the appellant.”

This Court on consideration of the judgment of the Hon’ble Apex Court quoted and referred hereinabove and applying the same on the facts of the given case, deem it fit and proper to peruse the documents considering the public interest at large.

In view thereof, the prayer made on behalf of the Respondent-State of Jharkhand, so far as it relates to recall of the orders dated 22.04.2022 and 13.05.2022 passed in W.P. (PIL) No.4290 of 2021 is, hereby, rejected.

Accordingly, the sealed cover has been opened and the documents have been perused by this Court.

Let the records be sealed again and kept in the safe custody of the High Court.

So far as the other prayers made in the instant interlocutory applications are concerned, the same will be considered on its own merit.

W.P. (PIL) No.4290 of 2021

Heard the learned counsel for the parties on the merit of the issue.

Mr. Kapil Sibal, learned counsel appearing for the State of Jharkhand assisted by Mr. Rajiv Ranjan, learned Advocate General of the State, has raised preliminary objection regarding maintainability of the writ application, on the ground of lack of credentials of the writ petitioners. He has relied upon several judgments of the Hon'ble Apex Court. He further submits that it is not a case where the investigation is to be transferred to the special Agency like the Central Bureau of Investigation, since there is no F.I.R.

Learned counsel appearing for the petitioner has submitted that the credentials of the writ petitioner which has been taken as a ground for dismissal of the writ petition is not worth to be considered, since the embezzlement of public money is involved and the Secretary (Mines) of the State of Jharkhand has been apprehended from whose possession huge money has been recovered.

Mr. Tushar Mehta, learned Senior Counsel appearing for the Enforcement Directorate assisted by Mr. Amit Kumar Das, learned counsel, has submitted that the State is making an objection for investigation of the matter by the Central Bureau of Investigation, but, very surprisingly no F.I.R. has been instituted by the State, even though the Secretary (Mines) of the State of Jharkhand has been apprehended and incriminating materials have been recovered from her possession and disclosure of names of the high-ups of the State of Jharkhand and

others as would appear from the documents contained in the sealed cover. As such, for public interest at large, for fare investigation, it is necessary to hand over the investigation to the Central Bureau of Investigation

Mr. Rajiv Kumar, learned counsel, has submitted by making reference of W.P. (PIL) No. 4632 of 2019 that the issue pertaining to embezzlement of public money under the MGNREGA Scheme is involved, wherein, the Enforcement Directorate is proceeding for investigating the matter, as such, these cases may be listed along with W.P. (PIL) No. 4632 of 2019.

In course of argument, it has been submitted on behalf of the parties that 16 F.I.Rs. have been instituted and investigation of the same is being conducted by the District Police, the said fact has not been disputed by the learned Advocate General appearing for the State.

Considering the aforesaid facts, the learned Advocate General of the State of Jharkhand is directed to furnish the details of the F.I.Rs, date of institution of the cases as also the stage of the investigation.

This is also a fact that the Mining Secretary of the State has been apprehended and has been suspended by the State Government.

It is contended by the learned counsel for the writ petitioner that it would be apt to hear the W.P. (PIL) No. 4632 of 2019 also along with this in view of the fact that it relates to such matter in which one of the Junior Engineers and some accused have already been apprehended and certain directions were given by this Court.

Let the aforesaid matter being W.P. (PIL) no. 4632 of 2019 be also placed side by side this matter on the next date of hearing.

Since we would be directing the State Government to produce the details of those 16 First Information Reports, accordingly, let these matters be posted day-after-tomorrow (**19.05.2022**) at **10.30 a.m.** under the Video Conferencing mode.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)