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06.03.2023
(BM)
Ct 39

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5718 of 2023

Jagabandhu Mondal
Vs.
State of West Bengal & Ors.

Mr. Rupayan Deb,
Ms. Varsha Roy,
Mr. Aniruddha Sinha,
Ms. Priya Nandy For the petitioner.

In view of urgency pleaded in the writ petition Rule 26 of the Writ Rules regarding service of notice upon the respondents is dispensed with.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondents authorities to show cause as to why the Vakalatnama dropped in the drop box of the respondents has not been provided to the learned lawyer of the accused under trial, S. Dasgupta.

The petitioner is the brother-in-law of the accused under trial prisoner, Subhasish Dasgupta who has been arraigned as an accused in Beliaghata Police Station Case no. 5 of 2022 dated 2nd January, 2022 under Sections 120(B)/395/397/307 of the India Penal Code read with Section 25(1B)(a)/27 of the Arms Act.

The mother of the under trial prisoner had died and the prisoner applied for temporary parole to perform last

rites of his mother and to perform the Shradh ceremony.

The Superintendent, Presidency Correctional Home granted time for a period of six hours on 2nd March, 2023 for cremation. This was recorded in the order dated 02.03.2023 passed by this Court in WPA 5107 of 2023.

Since a prayer for parole for performing last rites of the 13th day has been made before the learned Sessions Judge, this Court directed the learned Sessions Judge to consider the petitioner's application for such parole in course of a week. However, as submitted on behalf of the petitioner, the same was not done although the matter was taken up for hearing on a particular day. No order has been communicated to the petitioner in this regard. So, the petitioner was compelled to file the writ petition before this Court, even for the purpose of a Vakalatnama to be made available to the learned lawyer of the under trial prisoner. The brother-in-law of the under trial seeks appropriate directions so that earlier order of this Court is complied with and a Vakalatnama of the under trial prisoner is also provided to the learned lawyer and/or the under trial's family.

It appears from the pleadings that the Shradh ceremony of the mother of the under trial prisoner is to take place on 09.03.2023.

The main prayer of the petitioner is quite

innocuous and therefore, the same is allowed that is to say, the respondent authorities shall immediately hand over a Vakalatnama duly executed by the under trial prisoner to the relatives and or advocates of the petitioner.

Further, the learned Sessions Judge is requested to comply with the order passed by a Co-ordinate Bench of this Court on 02.03.2023 in WPA 5107 of 2023 and communicate the order to the under trial prisoner as regards his prayer for temporary parole to perform the Shradh ceremony of his mother on 09.03.2023. This Court is confident that the learned Judge will do the needful in good time, well before the 'Shradh' scheduled on 09.03.2023, so as not to render the direction passed by this Court on 02.03.2023, nugatory.

The under trial shall also be at liberty to pray for assistance before the authorities of the correctional home for assistance to perform 'Khourakarma' inside the prison.

Unfortunately, the petitioner has also not been able to annex copy of the application for temporary parole filed before the learned Sessions Judge. As such, without going into the details of the averments made therein, no further relief can be granted at the present.

With these observations, the writ petition is

disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

(Jay Sengupta, J.)