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WPA 9732 of 2020

Palash Sarkar

Vs.

The State of West Bengal & Ors.

W I T H

WPA 9734 of 2020

Biswajit Ghosh

Vs.

The State of West Bengal & Ors.

Ms. Susmita Saha Dutta,
Mr. Nilendu Saha

... For the Petitioners.

Mr. Saibal Bapuli,
Mr. Md. Sabir Ahmed

... For the State in WPA/9732/2020.

Mr. Pantu Deb Roy,
Mr. Rana Mukherjee,
Mr. Anand Farmania

... For the State in WPA/9734/2020.

1. We have heard learned counsel for the petitioner in these two writ petitions. We have perused the report forwarded by the Additional Chief Judicial Magistrate, Tehatta, Nadia. We have also heard learned counsel appearing for the official respondents.

2. Learned counsel for the petitioner attempted to point out that what has been demonstrated through these writ petitions are merely tips of the iceberg and the larger canvass will disclose that there is a consorted effort in certain religious denominations to effectuate conversion under the guise of the institution of marriage. She persuasively says that in areas where there are no state legislation controlling or regulating such religious conversion, the judiciary could

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consider stepping in to put regulatory measures in place.

3. Bestowing our thoughtful consideration to this aspect, we are of the view that the case in hand is not one where the most critical aspect emanating out of Article 21 of the Constitution may provoke exercise of judicial power on the premise that there is no legislation in place. The pith and substance of all the issues relating to conversion of marriage and acceptability of marriage in terms of personal laws or municipal laws are matters on which the policy making instrument would not be the judiciary. However, the courts may sit in judgment on the validity, enforceability and/or otherwise of any piece of law which may be made by any legislative body.

4. Be that as it may, we are of the view that in the light of the report of the ACJM, Tehatta, Nadia and the accused girls in relation to whom these writ petitions have been filed having been recovered, no further purpose would be served by keeping these writ petitions on board since they stand discharged upon recovery of the alleged victims.

5. We accordingly dispose of these writ petitions preserving any issue which the petitioners may deem appropriate to raise in the competent jurisdiction.

(Thottathil B. Radhakrishnan, C.J.)

(Arijit Banerjee, J.)

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