

24th December,
2019
(AK)
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W.P. 23644(W) of 2019

Abdur Sukur @ Adi Sukur & Anr.
Vs.
The State of West Bengal & ors.

Mr. Rachit Lakhmani
Mr. Indrojeet Dey

...For the Petitioners.

Mr. A.K. Nag

...For the State.

Affidavit-of-service filed in court today be kept on record.

Despite service, none appears on behalf of the proforma respondents, although the respondent nos. 1 to 5 are represented through counsel. The grievance of the petitioner is that the petitioners belong to the "Rohingya" Community, who are at present state-less in view of Myanmar having disowned them.

The plight of the petitioners is that they have, according to learned counsel for the petitioners, completed their sentence for the alleged offences against them upon being detained by the respondent nos. 1 to 5 and that the said respondents are now attempting to deport them to Myanmar.

It is argued that such deportation would tantamount to a death sentence against the petitioners, in view of the plight of the

petitioners in Myanmar, which country has the declared policy of an all-out onslaught on the said “Rohingya” Community.

Learned counsel for the respondent nos. 1 to 4 submits that the writ petition is vague as regards the period of sentence which has been undergone by the petitioners. It is further submitted that the Ministry of External Affairs of the Union of India is a necessary party and ought to be heard in this regard.

At this juncture, an adjournment is sought for on behalf of the Union of India.

However, in view of the imminent plight of the petitioners, who, despite having basic human rights in consonance with the Fundamental Rights provided by the Constitution of India as well as the U.N. Charter and the norms of any civilized society, a minimum protection ought to be given to the petitioners till the writ petition is decided, in order to uphold the spirit of humanity, if not the Fundamental Rights enshrined in the Constitution of India, which is the *grundnorm* of all Indian statutes.

Accordingly, the respondents are directed to file their affidavit(s)-in-opposition within January 10, 2020. Reply/replies, if any, shall be filed by the petitioners within January 17, 2020.

The respondents shall be restrained by an order of injunction from deporting the petitioners from India during pendency of the writ petition.

The respondents are further directed to ensure that the petitioners are provided with the basic amenities, compatible with a life worthy of respect. It is further clarified that, if the advocate-on-record and/or any other advocate, representing the petitioners, seeks leave to have access to the petitioners in the meantime, such advocate(s) will be granted such access by the respondents to the limited extent that the respondents might monitor the timing of such access and such access may be, at the discretion of the respondents, under the supervision of the respondents.

Let the matter appear next “For Hearing” on January 20, 2020.

(Sabyasachi Bhattacharyya, J.)