

Court No. 17

WPA 12266 of 2021

15.02.2022

Sandeep Prasad & Ors.

(AD 2)

Vs.

The State of West Bengal & Ors.

[at 12 noon]

with

(S. Banerjee)

CAN 1 of 2021

CAN 2 of 2021

CAN 3 of 2021

CAN 4 of 2021

CAN 5 of 2021

(Via Video Conference)

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate

Mr. Sudipta Dasgupta

Mr. Bikram Banerjee

Mr. Arkadeb Biswas

Ms. Dipa Acharyya

Mr. Arka Nandi

...for the petitioners

Mr. Soumendra Nath Mookherjee, Advocate General

Mr. Anirban Ray, Govt. Pleader

Mr. Bhaskar Prasad Vaisya

Mr. Joydip Banerjee

Mr. Saaquib Siddiqui

Mr. Aviroop Mitra

... for the State

Dr. Sutanu Kumar Patra

Ms. Supriya Dubey

... for SSC

Ms. Koyeli Bhattacharyya

...for WBBSE

(1) On 9th February, 2022 I passed certain orders in respect of this matter wherein inter alia I directed the Committee, formed by the Division Bench, to file interim report on 14th February. But the Committee did not file any such report before this court. Nobody also appeared before this court on behalf of the Committee on 14th February to intimate this court as to why the report could not be filed.

(2) By the said order dated 9th February, 2022 I also directed the Committee to file the minutes of the meetings, conducted by the Committee, in the meantime, i.e., from the date of the order of the appeal court till 6th February, 2022.

(3) One of the Committee members, I am told filed one supplementary affidavit against the order passed by this court on 09.02.2022 in connection with an application filed by one of the Committee members before the Division Bench for extension of time by four months.

I am further told that, (though the order passed yesterday, i.e., 14th February, 2022, is not available to the parties) the whole of the order in connection with the directions given to the Committee by this court has not been interfered with.

(4) This morning when the matter was taken up, I wanted to know from the learned Registrar General of this court as to why the order passed on 14th February, 2022 by the appeal court is not available. But till now no such intimation has been given to this court by the Registrar General.

(5) Today also I find that nobody is appearing on behalf of the Committee which was directed to file the interim report and the minutes of the meeting. The minutes of the meeting were to be filed in a sealed cover.

(6) The Division Bench while dealing with the order passed by this court on 6th December, 2021 actually replaced the agency for conducting the enquiry and instead of

Central Bureau of Investigation (CBI, in short) had formed the Committee with some persons and one retired Judge at the top of it. The Division Bench in its order dated 6th December, 2021, whereby it formed the Committee, categorically and in unequivocal terms held that an extensive inquiry to be undertaken and the bench felt that if the 'entire inquiry' is monitored by a retired Judge of this Court upon constituting a Special Team, it would subserve justice. This is found from page 7 of the said judgement and order of the Division Bench. In page 8 of the order of the Division Bench it has been recorded by the Division Bench that it appointed one retired Judge of this court as Chairperson to monitor the entire process of enquiry under whose supervision and surveillance the inquiry team would act.

- (7)** In my order dated 22nd November, 2021 I directed the Director, Central Bureau of Investigation (CBI) to constitute a committee headed by an officer, not below the rank of Joint Director with officers not below the rank of DIG, to initiate the inquiry and it was the expectation of the court that no person would be left out of this inquiry. CBI was further directed to inquire a very important part of the serious illegality and irregularity as to whether there was any money trail in issuance of such recommendation letters and subsequent issuance of appointment letters to the persons. I directed the CBI to file a preliminary report on 21st December, 2021.

- (8)** As CBI was replaced by the Committee by the order of the Division Bench dated 6th December, 2021 and as the Division Bench categorically held that the entire process of inquiry is to be conducted and the entire inquiry is to be monitored by a retired Judge of this High Court, I find that question of money trail is within the purview of this Committee constituted by the Division Bench.
- (9)** Today also nobody appears for the Committee. On the last occasion also nobody appeared for the Committee. I am told today by the learned advocate for the petitioners and the learned Government Pleader that this part of my order regarding filing of interim report and the filing of the minutes of the meeting in sealed cover has not been interfered with by the Division Bench in the order passed yesterday (14th February, 2022).
- (10)** Therefore, I hold that the Committee has clearly shown disrespect to this court in not filing the interim report and in not filing the minutes of the meetings. The Committee has also not shown any reason as to why it has not filed the interim report and as to why it has not filed the minutes of the meeting in a sealed cover. Therefore, I have no other alternative but to hold that for last more than two months the Committee has not taken any meaningful steps in the inquiry of the entire process. It is not understood what is the preventing factor acting against the Committee for nor filing the interim report and not filing the minutes of the meeting before this court. This show of enough

disrespect to this court by the Committee will not be tolerated and is not tolerated by this court and I dissolve the Committee keeping in mind that the committee is not acting under the Division Bench and the Division Bench is not in seisin of the committee and it is the order of the Division Bench that this committee is to file report before this single bench. Therefore satisfaction of this court is necessary for continuation of the committee. I am wholly dissatisfied with the committee and it is not required to function further in this matter. The Committee shall have no power to inquire into the matter from today.

- (11)** I further direct any of the members of the dissolved Committee to produce the interim report and the minutes of the meeting in a sealed cover by tomorrow, i.e., 16th February, 2022, when this matter will appear under the heading "To be mentioned".

As the Committee has failed utterly is doing its job and not only failed, but have shown enough disrespect to this court, I again impose CBI inquiry in this matter. Hence, I pass the following order as I passed on 22nd November, 2021.

- (12)** I direct the Director, Central Bureau of Investigation to constitute a committee, headed by an officer not below the rank of a Joint Director, with officers not below the rank of DIG to initiate the inquiry and this court expects that no person would be left out of this inquiry.

CBI should also inquire a very important part of this serious illegality and irregularity as to whether there is any money trail in issuance of such recommendation letters and subsequent issuance of appointment letters to the persons.

CBI will file one preliminary report before this court on 16th March, 2022 at 12 noon when this matter will again be taken up for further hearing.

(13) CBI is directed to contact the Chairperson of the Committee, (whose address is with the learned advocate for the petitioners) and to collect all papers in respect of this matter from his custody in course of the day and to appear before this court tomorrow when this matter will appear in the list to intimate the steps taken by them in compliance with the order passed today. If for some reason this order cannot be carried out by CBI by 9 p.m. today, CBI shall have the liberty to contact the Chairperson of the Committee between 8 a.m. and 10 a.m. tomorrow (16.02.2022) for collection of such papers and documents in his custody or in any other office, if the CBI comes to know that such documents have been kept in that office.

(14) Till CBI enters the office of the Committee, if there is any, no other person, whoever he may be, will enter the office from now and the Central Reserve Police Force (CRPF) is directed to place vigil immediately with sufficient force in the office of the Committee so that nobody can enter in the said office till CBI completes its duty there.

(15) The learned advocate for the petitioners are directed to communicate this order immediately to the Director, CBI on the basis of the order passed right now as he heard it and also to the appropriate authority of CRPF to start vigil in the office of the Committee and not to allow any person to enter into the said office from 1 p.m. today this the order is being passed. After the duty performed by CBI the vigil by CRPF will be withdrawn.

(16) List this matter under the heading "To be mentioned" tomorrow at 11 a.m. when the CBI or any authorised person of CBI will appear before this court and will submit as to the compliance of this order.

List this matter accordingly.

(Abhijit Gangopadhyay, J.)

Later:

Learned Advocate General present in this court prays for a formal stay of the operation of this order passed today.

Such prayer is considered and rejected.

(Abhijit Gangopadhyay, J.)