

02.07.2021
Ct. No.8
S/L No.1
KS/BM/AD

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(Via Video Conference)

W.P.A. 10597 of 2021

Suvendu Adhikari

-Vs.-

The State of West Bengal & Ors.

Mr. Soumya Majumder

Mr. Billwadal Bhattacharya

Mr. Saket Sharma

.....For the Petitioner

Mr. Kishore Dutta

Mr. Anand Farmania

Ms. Chaitali Bhattacharya

.....For the State

In the instant writ petition, the petitioner has sought for direction upon the respondent authorities to submit a report as to why the security cover provided to the petitioner by the State-respondents suddenly withdrawn as the petitioner being the Leader of the Opposition is entitled to security cover by the State respondents. Accordingly, the petitioner seeks direction upon the respondent nos.2 to 5 to maintain political neutrality and to oversee such security arrangements and to ensure that full proof security arrangement is made in respect of the petitioner including the security at the place of his visit for holding public meeting as well as route lining security arrangement and to act

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in accordance with law. Petitioner further seeks direction on the respondents to publish a list of persons who are being provided security cover by the State of West Bengal.

Brief facts leading to the case is that the petitioner as a political leader has acquired a status and has gathered support of millions of people out of love and affection towards him. It is alleged that on 19th December, 2020 the petitioner attended a mass political rally in Midnapore Town and joined Bharatiya Janata Party. Immediately, upon his joining, the supporters of his former political party being spear headed by some local leaders launched a chaotic, virulent, obnoxious mission of spiteful aggression and attack on the petitioner and his supporters hurling abuses. The day he was appointed as the Chairman-Managing Director of Jute Corporation of India, a position being equivalent to the rank of Union Cabinet Minister, he gained further prominence.

Admittedly, the petitioner was given status Z category protectee of the State, and even after the change of regime in 2011 the threat perception of the petitioner kept on escalating with his importance as a Mass Leader constantly being arisen. He had contested at Tamluk Constituency and was elected as the Member of Parliament in 2009 and had received severe threat to his life as per the credible information received by Intelligence

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Branch when the police authority in the district of Paschim Medinipur were alerted and directed to maintain extreme vigilance. Now, admittedly, the petitioner is Z category protectee by the Central Government in view of his severe threat perception in the month of September, 2020.

The matter was heard earlier and it would reflect that the security cover of the petitioner was withdrawn allegedly on 18th May, 2021 whereas he has continuing perception of threat to his life. Although the petitioner enjoys Z category security from the Central Government to ward off any threat perception to the life of the petitioner yet, the petitioner has sought for security arrangement from the State Government in three areas namely Pilot Car, Route Lining and Monitoring the places where public meetings may be held. The order dated 24.06.2021 passed by the Coordinate Bench of this Hon'ble Court speaks of that the petitioner has been given adequate security arrangement commensurate to his status as the Leader of the Opposition and given few instances of security personnel both of proximate and peripheral nature presently in charge of the petitioner's security. Accordingly, learned Advocate General, Mr. Kishore Dutta has denied categorically the allegation so made on behalf of the petitioner as the petitioner has not been deprived of his security cover. This Court by the order dated 30.06.2021 sought for

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exhaustive report from the State/respondents and the report has been placed on record.

Mr. Dutta, also invited my attention to the extract copy of Yellow Book for drawing of security scheme relating to Z category at para 6.5 and 6.11 which provides for the manner in which the protectee is provided security by the Centre and by the State/UT.

The report is placed on record and the said report has been given by the Director of Security (Home & Hill Affairs Department, Government of West Bengal) and by placing this report dated 28.06. 2021 vide a Memo No.2250. The learned Advocate General emphasized with the contention that security is being provided to an individual on the basis of threat perception and the petitioner is provided with the said statutory security cover by the Central Government and his movement is also taken care of with all security vigilance through Intelligence Department.

It would be pertinent to take note of the report as under :-

- 1) Ministry of Home Affairs (MHA), New Delhi has assessed the threat perception of the applicant and accorded him "Z" category CRPF security cover with BR vehicle in West Bengal and "Y (Plus)" CRPF security cover in rest of India vide MHA Letter U.O. No.VI-23014/241/2009-VS, Dated 17/12/2020.

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- 2) Accordingly, one Joint Security Review (JSR) Meeting was held with the officers of CRPF, officers of Purba Medinipur, Subsidiary Intelligence Bureau and Directorate of Security, West Bengal at the residence of the applicant on 20/12/2020. As per decisions taken in JSR meeting, PSOs, Escort Personnel and House Protection Team at his permanent resident would be provided from CRPF. At present, there are 28(twenty eight) CRPF personnel deployed for his security. Only after CRPF took over security and communicated to the State Govt. vide DG CRPF U.O. No.INT 124/2020-DA-VS Dated 21/12/2020, the State Police personnel, previously engaged in his security duty, have been gradually redeployed from December, 2020 onwards for other govt. duties.
- 3) As per decision taken in the JSR meeting, one Security Liaison Officer (in the rank of SI) has been detailed from local police for better coordination. Watchers and Security trained drivers with RT fitted mechanically sound Escort cars are also provided from West Bengal Police in his existing proximate security.
- 4) Besides, District Police arranges for Anti-Sabotage Check/Access Control and other security checks at the

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places visited by him or to be visited by him including security measures enroute, if tour programme is communicated on time.

- 5) If CRPF is unable to provide security in any case, then West Bengal Police provides required security component to the protectee from their resources till the CRPF reaches the location. State Government provides all cooperation to CRPF for security.
- 6) The applicant is being provided all necessary security arrangements as per scale for "Z" category protectee as per "Yellow Book" in West Bengal by State Government. Besides, additional security arrangements whenever considered necessary, by the local units depending upon local situation/intelligence input/threat perception are also made.
- 7) 7) As per Yellow Book, a protectee can have security component from either Centre or from State, but not from both-except that liaising component as per scale has to be provided by the local unit.
- 8) Incidents related to para 13, 23, 28 and 31, relates to Law & Order/Inter Party Clash for which appropriate police action has been taken and specific cases have been

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registered which is under investigation and two of above cases ended in charge sheet.

a) Para 13

In this regard a case vide Contai Police Station under District Purba Medinipur Case No.02/21 dtd. 03.01.201 under Sections 147/148/149/341/325/379/354/427/506 Indian Penal Code was registered and the case ended in charge sheet

b) Para 23

In this regard a case vide Nandigram PS District Purba Medinipur Case No.17/21 dtd. 10.01.2021 under Section 447/427/506/34 IPC was started and the case ended in charge sheet.

c) Para 28

In this regard a case vide Kashipore PS under District Purrulia Case No.06/21 dtd. 17.01.2021 under Sections 279/323/506/34 IPC was registered and the case is under investigation

d) Para 31

In this regard a case vide Durgachak PS District Purba Medinipur Case No.60/21 dtd. 04.05.21, under Sections 143/341/353/427 IPC was started and the case is under investigation.

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9) Presently there are five(05) "Z" category protectee, two (02) "Y(Plus)" protectees and seventeen (17) "Y" category protectees in the State Cabinet in West Bengal. So, nineteen (19) Cabinet Ministers of West Bengal are getting a security cover below that of the petitioner.

10) In last two terms of State Assembly, the security category of the opposition leaders of West Bengal Legislative Assembly was below that of the petitioner."

Mr. Datta invites my attention to paragraphs 20 and 21 of the writ petition to submit that the petitioner is Z category protectee owing to severe threat perception. It is true that public order and the Police are State subjects in terms of list II of the Seventh Schedule of the Constitution of India and obligation is cast on the State for maintenance of public order as well as ensuring additional safety and security of the petitioner at the time of and during his activities. Thus, it is pointed out that having regard to the pointwise report mentioned above that full security as well as additional security in the hour of need is provided to the petitioner.

Mr. Dutta, learned Advocate General further invites my attention to the averments made in paragraph 32 of the writ petition by which the petitioner has alleged that the despite being the Leader of Opposition in West Bengal Legislative

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Assembly, security cover as were being provided by the State Government has been withdrawn without any rhyme or reason on 18.05.2021 and draws my attention to paragraph 2 of the report to contend that one joint review meeting was held with Officer of CRPF, Officers of Puba Medinipur, Subsidiary Intelligence Bureau and Directorate of Security, West Bengal at the residence of the applicant on 20.12.2020 and as per decision taken in the meeting, PSOs, Escort Personnel and House Protection Team at his permanent residence was decided to be provided from CRPF and at present there are sufficient number of CRPF personnel deployed for his security and only after CRPF took over security and communicated to the State Government vide DG CRPF U.O. No.INT 124/2020-DA-VS dated 21.12.2020, the State Police personnel, previously engaged in his security duty, have been gradually redeployed from December, 2020 onwards for government duties.

In view of such report, it cannot be said that without any rhyme or reason all on a sudden the security personnel were withdrawn. It was redeployed only on the basis of Joint Security Review between the officer of CRPF and the State Police authority together with Intelligence Bureau. The threat of security as such, there is no reason for the petitioner to apprehend about the security because being the Leader of

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Opposition holding the rank of Cabinet Minister, there is no denial to provide him security. It is the contention that since Z category security has been already made similar security by the State respondent may not be needed in view of Joint Security Review.

Now my attention is drawn to the averment made in paragraph 39 of the writ petition by the learned Advocate General which offers that petitioner is not seeking direction from the State respondent for providing armed security personnel/bodyguards/PSOs as the petitioner is receiving Central Security cover- category Z but the direction has been sought for upon the respondent authority for ensuring that there is adequate security arrangement not at the venue of his meeting but also route lining security arrangement to be ensured for ensuring the safety and security of the petitioner during ingress and egress to such avenue.

Now Mr. Datta invites my attention to the parawise report at paragraphs 3, 4, 5 and 6 and that covers the case of the petitioner because one Security Liaison Officer (in the rank of SI) has been detailed from local police station for better coordination. Watchers and Security trained drivers with RT fitted mechanically sound Escort cars are also provided to West Bengal Police in his existing proximity security. The District

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Police also arrange for Anti-Sabotage Check/Access Control and other security checks at the places visited by the petitioner and to be visited by him including security measures enroute, if tour programme is communicated on time.

That apart in case if CRPF is unable to provide security in any case, then West Bengal Police provides required security component to the protectee from their resources till the CRPF reaches the location. The State Government provides all cooperation to CRPF for security. Mr. Datta learned Advocate General appearing for the State respondent reiterates that the petitioner is being provided all necessary security arrangements as per scale for "Z" category protectee as per "Yellow Book" in West Bengal by State Government. Besides additional security arrangement whenever considered necessary, by the local units dependent upon local situation/intelligence input/ threat perception are also made therefore, the petitioner appears to have sought for direction for route line of etc. are well cover by the State Government by providing adequate security according to category of getting security for being leader of the opposition holding rank of Cabinet Ministry.

Thus, Mr. Datta, learned advocate General submits that every appropriate protection is being provided to the writ petitioner and there should not be any apprehension in mind as

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in respect of threat perception on him because each and every Minister discharge the public office and discharging the sovereign function of the State receives threat perception and adequate security cover is provided to them by the State Government on the requisition and everybody movement is watched by the Intelligence Bureau therefore, the prayer as made for security arrangement for route lining and for the petitioner's movement to visit for the public meeting etc. are well cover by the security.

Mr. Soumya Majumder, learned counsel for the petitioner invites my attention to various documents annexed to the writ application and points out that State security is suddenly withdrawn by the State Government. This Court finds that arrangement regarding security cover to the petitioner is well noted in the report of the Directorate of Security.

My attention is invited to order earlier passed on 23.03.2007 by Hon'ble Justice Dipankar Datta in W.P.4191 (W) of 2007 which reflects observation that it shall be the duty of the local police officer to offer such protection to the petitioner as was warranted in the circumstances according to law as the petitioner was apprehending threat on his life and liberty. I have observed that there is no denial by the learned Advocate General in the matter of security arrangement in favour of the

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petitioner and his entitlement as the Leader of Opposition in the Assembly holding rank of a Cabinet Minister. The report as sought for in terms of the prayer of the petitioner in crystal terms speaks of arrangement is being made for his security even while on visit to different places and security vigil is always there.

For the reasons stated above and for the reasons, I find that the petitioner is provided with Z category security arrangement is well-maintained according to the scale of Z category protectee as per the "Yellow Book" by the Government of West Bengal in terms of the report of the Director Security, Government of West Bengal. However, the State/respondents as per the report would continue to keep security cover and vigilance on the movement of the petitioner so that the petitioner is provided full security in the hour of need.

With the above observation, the writ application being, W.P.A. 10597 of 2021 is disposed of.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Shivakant Prasad, J.)