In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

The Hon'ble Justice Sabyasachi Bhattacharyya

W.P. No. 1181(W) of 2020

Kartick Paul
Vs.
The State of West Bengal and others

For the petitioner	:	Mr. Rudra Sarkar, Mr. Satrajit Sinha Roy, Mr. Tapan Roy
For the State	:	Mr. Pantu Deb Roy, Mr. Pannalal Bandopadhyay
Hearing concluded on	:	11.03.2020
Judgment on	:	11.06.2020

Sabyasachi Bhattacharyya, J.:-

1) The primary question raised by the writ petitioner is, whether rates of remuneration to prisoners in the state of West Bengal should be governed by the provisions of the Minimum Wages Act, 1948 (hereinafter referred to as "the MW Act") and the rates fixed under such provisions by the appropriate government (Central or State, as the case may be) as minimum wages.

2) The writ petitioner was incarcerated for the murder of his wife and underwent rigorous imprisonment for the period between July, 2013 and July, 2018. He was, according to the averments in the writ petition, paid ₹ 73,112/- as wages for the said period. Meanwhile, the petitioner had preferred an appeal in this court and the same was disposed of, modifying the charge to culpable homicide under Section 304 (I) of the Indian Penal Code. The sentence of

the petitioner was modified to the period already undergone and the petitioner was directed to pay a fine of ₹ 10,000, in default, to suffer rigorous imprisonment for six months. The period of detention suffered by the petitioner during investigation, enquiry and trial was directed to be set off against the substantive sentence imposed upon the petitioner in terms of Section 428 of the Code of Criminal Procedure.

3) According to the writ petitioner, the payment of wages for the period of imprisonment underwent by the petitioner ought to be commensurate with the rates as specified by the state government under the provisions of the MW Act.

4) Learned counsel for the writ petitioner relies in particular on sections 54 and 55 of the West Bengal Correctional Services Act, 1992, (hereinafter referred to as "the 1992 Act")which read as follows:

54. *(1) The Medical Officer shall , after conviction of a prisoner , examine him and endorse on his history ticket whether he is fit for hard labour, medium labour or light labour . The Superintendent shall, on the recommendation of the Medical officer as aforesaid, fix the work to be done by such prisoner, keeping in view his physical condition, personal taste and aptitude, and shall determine whether the prisoner should be employed in skilled, semi-skilled, or unskilled labour. In case of a female prisoner, the work to be done by her shall not exceed two thirds of the work involving hard labour or light labour as the case may be, to be done by a male prisoner.*

(2) No prisoner shall be put to hard labour continuously for a period exceeding four months without a break for at least one month.

(3) If, on a subsequent examination of a prisoner recommended him earlier for hard labour, the Medical Officer is of opinion that his health does not permit him to undergo such hard labour, the Medical Officer may recommend him for minimum labour.

(4) If at any time, the Medical Officer is of opinion that a prisoner is or has been suffering from a contagious or infectious disease, he shall at once send the prisoner segregation cell or room, as the case may be , and arrange for his proper treatment till his recovery.

55. *(1) The rate of wages payable to skilled , semiskilled or unskilled prisoner put to had labour , medium labour or light labour , as the case may be ,shall be such as may be prescribed:*

Provided that---- (a) the rate of wages payable to skilled , semi-skilled , or unskilled prisoners put to hard labour and light labour, shall be different; and (b) the minimum wage for one full day's labour of any type shall not be less than one rupee.

(2) Every prisoner shall be entitled to spend to extent of 50% of the wages earned by him per month and the remaining 50% of such wages shall be kept reserved for payment to the prisoner at the time of release as deferred wages. The Superintendent shall open individual savings bank account in any branch of the State Bank of India or any national bank or postal savings account wherein deferred wages earned by such prisoner shall be deposited.

(3) If any under trial prisoner or civil prisoner sentenced to simple imprisonment opts to undergo any type of labour, he shall be entitled to wages for such labour at such rate as may be prescribed, provided the rate so prescribed shall not be less than the rate prescribed For other prisoners under section(1). The West Bengal Correctional Services Act 1992

(Chapter XVI.- Labour and wages in correctional home .- Sections 56,57. - Chapter XVII.-Remission, and Parole - Section 58)

(4) The Superintendent shall maintain, in such form as may be prescribed, a Register of Labour where in the particulars of the wages earned by every prisoner, the portion of the wages spent by the prisoner, the particulars of the deferred wages and the incidental matters shall be recorded.

5) Learned counsel argues that the 'services' contemplated under the 1992 Act, since rendered for remuneration within the scheme of Sections 54 and 55 thereof, comes within the purview of 'scheduled employment' as envisaged in the MW Act. The State, through the appropriate authorities, being responsible for such payment, acts as an 'employer' and the prisoner renders service as an 'employee' within the scheme of the MW Act.

6) Learned counsel for the petitioner submits that since the term 'wages', as used in Section 55 of the 1992 Act, has not been defined in the said Act, the rates of minimum wages, as envisioned in the MW Act, which is a *pari materia* statute in that regard, ought to be applicable, in all fairness, to prisoners insofar as their 'wages' under Section 55 of the 1992 Act are concerned.

7) In this context, learned counsel for the petitioner cites a 3-Judge Bench decision of the Supreme Court, reported at ***(1998) 7 Supreme Court Cases 392 [State of Gujarat and***

Another v. Hon'ble High Court of Gujarat], wherein certain conclusions, in the form of guidelines, where laid down, which were as follows:

"

(1) It is lawful to employ the prisoners sentenced to rigorous imprisonment to do hard labour whether he consents to do it or not.

(2) It is open to the jail officials to permit other prisoners also to do any work which they choose to do provided such prisoners make a request for that purpose.

(3) It is imperative that the prisoners should be paid equitable wages for the work done by them. In order to determine the quantum of equitable wages payable to prisoners, the State concerned shall constitute a wage-fixation body for making recommendations. We direct each state to do so as early as possible.

(4) Until the State Government takes any decision on such recommendations, every prisoner must be paid wages for the work done by him at such rates or revised rates as the Government concerned fixes in the light of the observations made above. For this purpose, we direct all the State Governments to fix the rate of such interim wages within six weeks from today and report to this Court of compliance of this direction.

(5) We recommend to the State concerned to make law for setting apart a portion of the wages earned by the prisoners to be paid as compensation to deserving victims of the office, the commission of which entailed the sentence of imprisonment to the prisoner, either directly or through a common fund to be created for this purpose or in any other feasible mode. *"*

8) The above directions, issued by Justice Thomas in paragraph no. 50 of the judgment, were substantially agreed upon by Chief Justice M. M. Punchhi as well as Justice D. P. Wadhwa, the two other Hon'ble Judges on the Bench, although the latter dissented, on certain other issues, in his separate opinion.

9) Learned counsel for the petitioner places reliance next on ***People's Union for Democratic Rights & Ors. v. Union of India & Anr.*** , reported at ***(1982) 3 Supreme Court Cases 235***, in particular paragraph nos. 12 to 14 thereof. In the said judgment, Justice P. N. Bhagwati, speaking for the Bench, discussed the ambit of the expression "Prohibition of traffic in human beings and forced labour", including the concept of *begar*, in the light of Article 23 of

the Constitution of India. The judgment was rendered in the context of a letter, treated as a public interest litigation, alleging that various labour laws were being violated by the government while engaging labourers in construction works for the purpose of the Asian Games held in India.

10) The crux of the ratio laid down in the said judgment is as follows:-

Where a person provides labour or service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words 'forced labour' under Article 23. Such a person would be entitled to come to the court for enforcement of his fundamental rights under Article 23 by asking the court to direct payment of the minimum wage to him so that the labour or service provided by him ceases to be 'forced labour' and the breach of Article 23 is remedied.

11) Learned counsel appearing for the respondents seeks to distinguish ***People's Union for Democratic Rights & Ors. (supra)*** on the ground that the same emanated from a dissimilar set of facts than the present case. In the said judgment, the Supreme Court dealt with labour law violations in respect of construction workers for the Asian Games project and not prisoners. Service rendered by prisoners is governed by separate laws and the authorities have to provide the opportunity to prisoners to so serve, mandatorily in all cases of rigorous imprisonment as well as cases of simple imprisonment where the prisoners opt for such service. Thus, it is not necessarily the requirement of the prison authorities or the State which dictates employment of prisoners, but the authorities are mandated by law to so provide such service.

12) Learned counsel for the respondents-authorities further argues that the Supreme Court, in ***State of Gujarat and Another (supra)***, categorically directed committees to be formed by the respective states to ascertain reasonable wages for prisoners. Until the state governments fixed or revised the rates as per such recommendations, the Supreme Court

directed the state governments to fix interim rates within six weeks from the judgment. However, it was not directed anywhere in the said reported judgment that the rates had to be fixed/revised in consonance with, or as per, the MW Act.

13) It is further argued on behalf of the respondents that there is no mention of prisoners or prison service in the Schedule to the MW Act, which specifies the services falling within the ambit of the said Act. As such, prison service is not covered by the MW Act.

14) Learned counsel submits that Section 2 (e) of the MW Act defines "employer", and stipulates that the said expression, as well as the minimum wages envisaged in the Act, pertain to "scheduled employment" and the Schedule to the Act does not contemplate prison service of any type. Thus, such type of service is beyond the operation of the MW Act.

15) Next referring to the Full Bench judgment of the Kerala High Court reported at ***AIR 1983 Kerala 261 [In Re: Prison Reforms Enhancement of Wages of Prisoners etc.]***, learned counsel for the respondents submits that "reasonable wages" required to be paid to prisoners need not be equivalent to the rates stipulated under the MW Act.

16) Paragraph 30 of the said judgment, which contains the gist of the ratio laid down therein, reads as follows:

Irrespective of the capacity of the industry to pay, it has obligation to pay minimum wages and if it cannot pay even such minimum wage it does not deserve to exist. Reasonable wages would therefore always exceed minimum wages. Having said so we think we should leave it to the Government what reasonable wages should be paid to the inmates of the prisoners. A unanimous wage structure would of course be desirable lest there be charge of discrimination in assigning work. It is for the Government to consider all aspects of the question so that a just and reasonable wage structure is designed for the inmates of the prisons. We can appreciate that time must necessarily be taken by the Government in deciding upon such a wage structure. Until then it cannot be that the present situation is to continue. There must be an ad hoc measure, a measure which takes into account, the current wages in several

industries, the minimum wages fixed, the increase in cost of living in the recent days and such other matters of relevance. After considering all these matters and going through the minimum wages notifications in regard to various industries we think that as an ad hoc measure we may safely fix ₹ 8 per day as reasonable wages subject of course to alteration later, when as a result of further study, research and assessment the Government is able to decide upon appropriate wages to be paid to the prisoners.

17) Learned counsel for the respondents then cites a Madhya Pradesh High Court Division Bench judgment of ***S.P. Anand v. State of M.P. & Ors.***, reported at ***A.I.R. 2007 M.P. 166***. The matter arose from a public interest litigation complaining of the violation of fundamental rights of prisoners in the jails of Madhya Pradesh by putting more prisoners in the prisons than the total capacity of the prisons and by paying the prisoners remuneration for their prison service much below the rates specified under the MW Act, thereby allegedly violating Articles 21 and 23 of the Constitution of India respectively.

18) The following paragraphs of the said judgment, which relied on ***State of Gujarat (supra)***, have direct bearing on the question at hand, that is, what is "equitable wages" for prisoners vis-à-vis the minimum wages under the MW Act.

"20. *In sub para (3) of Para 51 of the judgment of the Supreme Court in the case of State of Gujarat (AIR 1998 SC 3164) (supra), the Supreme Court has held that it is imperative that the prisoner should be paid "equitable wages" for the work done by them and the Supreme Court has not directed for payment of minimum wages to the prisoners as contended by the petitioner. According to Thomas, J., "equitable wages" payable to the prisoner can be worked out after deducting the expenses incurred by the Government on food, clothing and other amenities provided to the prisoners from the minimum wages fixed under the Minimum Wages Act, 1948 (para 45). According to Wadhwa, J., the prisoner is not entitled to minimum wages fixed under the Minimum Wages Act, 1948, but there has to be some rational basis on which wages are to be paid to the prisoners (para 77). Rule 2(J) of the rules, as we have seen, defines wages to mean the amount of money earned by a prisoner in a day in lieu of the task or service assigned to him. So far as prisoners undergoing rigorous imprisonment are concerned, we have seen that under the Rules, the normal period of work cannot be four hours. In some kinds of tasks and services, the period of their employment is nine hours and in other kinds of tasks or services, the employment is as per quantum of work and not as per hours. Wages as defined in Rule 2(J) would*

thus mean such wages as are payable for the hours of labour or for the quantum of work assigned to the prisoner in the jail. Determination of wages for four hours of work is thus not in accordance with law. Further, the rates of wages of Rs. 8/- for unskilled prisoner and Rs. 10/- for skilled prisoner were fixed by the order dated 30th June, 1999 before Section 36-A was introduced in the Act by the Prison (Madhya Pradesh Amendment) Act, 1999 and before rules were amended by the notification dated 19th April, 2001 to give effect to Section 36-A of the Act. The State Government therefore will have to fix and notify the wages afresh in accordance with Section 36-A and Rules 2(J) and 647-B of the Rules keeping in mind the hours of labour or the quantum of work involved in the tasks or the services assigned to the prisoner.

21. *The wages so determined for the services or the tasks performed by the prisoners must have some rational basis and minimum wages fixed for similar task/service can constitute a rational basis for determination of such wages. Out of such wages, deductions will have to be made towards food and clothing and other amenities provided to the prisoners. Medical expenses being part of the obligation of the State under Article 21 of the Constitution as held by the Supreme Court in Permanand Katara v. Union of India (AIR 1989 SC 2039) (supra) and Pashchim Banga Khet Mazdoor Samiti v. State of West Bengal (AIR 1996 SC 2426) (supra) cannot be deducted from such wages. After such deductions, equitable wages payable to the prisoners can be fixed and notified by the State Government under sub-rule (1) of Rule 647-B of the Rules from time to time.*

22. *Such equitable wages cannot be a pittance and has to be reasonable because under the scheme of Section 36-B and Rule 647-B, such wages are not only to take care of the expenses of the prisoners in the jail but also are to provide for future rehabilitation of the prisoner as well as compensation to the victims. The provisions of Section 36-A and Rule 647-B of the Rules have been made pursuant to the recommendations in the judgment of the Supreme Court in the case of State of Gujarat (AIR 1998 SC 3164) (supra). In para 33 of the judgment as reported at page 3172 of the AIR Thomas, J. observed that assurance to the prisoner that his hard labour would eventually snowball into a handsome saving for his own rehabilitation would help him to get stripped of the moroseness and desperation in his mind while toiling with the rigors of the hard labour during the period of his jail life. In paragraphs 47 and 50 of the judgment as reported at page 3175 of the AIR, Thomas, J. has further held that the plight of the victims has been overlooked under the system of criminal justice and the State should constructively think and make appropriate law for diverting some portion of the income earned by the prisoner when he is in jail to the deserving victims. Wadhwa, J. has observed in para 92 of the judgment as reported at page 3188 in the AIR that while fixing wages for the prisoners the State has to show equal concern for the victim and victim's family. In para 100 of the judgment as reported at page 3190 in the AIR, Wadhwa, J. has made a strong plea in favour of the victims in the following words:*

"In our efforts to look after and protect the human rights of the convict we cannot forget the victim or his family in case of his death or who is otherwise incapacitated to earn his livelihood because of criminal act of the convict. The victim is certainly entitled to reparation, restitution and safeguards of his rights. Criminal justice would look hollow if justice is not done to the victim of the crime. Subject of victimology is gaining ground while we are also concerned with the rights of the prisoners and prison reforms. A victim of crime cannot be a "forgotten man" in the criminal justice system. It is he who has suffered the most. His family is ruined particularly in case of death and other bodily injury. This is apart from the factors like loss of reputation, humiliation, etc. An honour which is lost or life which is snuffed out cannot be recompensed but then monetary compensation will at least provide some solace."

If the twin objectives of rehabilitation of prisoners and compensation to victims are to be achieved, out of the earnings of the prisoner in the jail, then the income of the prisoner has to be equitable and reasonable and cannot be so meagre that it can neither take care of rehabilitation of the prisoner nor provide for compensation to the victims.

***23.** A plain reading of Section 36-A of the Act and Rule 647-B of the Rules quoted above would show that these two objects of rehabilitation of the prisoner and compensation to the victim forcefully pleaded in the judgments of Thomas, J. and Wadhwa, J. are sought to be achieved by the Legislature and the rule making authority. Section 36-A provides that 50% of the total amount of wages earned by the prisoner in a month shall be kept and deposited in a separate common fund which shall be exclusively used for the payment of compensation to the deserving victims of the offence the commission of which entailed the sentence of imprisonment to the prisoner or his family. In accordance with Section 36-A of the Act, sub-rule (3) of Rule 647-B quoted above provides that 50% of the wages earned by a prisoner in a month shall be deposited in a common fund and such amount of compensation forming the common fund shall be paid once to a deserving victim of the offence and in case of death of the deserving victim to the family member of the victim as decided by the committee. Sub-rule (4) of Rule 647-B provides that out of the remaining 50% of the wages, one third shall be paid to the prisoner or his family member, if any, one third shall be deposited in the prisoner's bank account as a saving to be paid to him at the time of his release and the remaining one third shall be available to the prisoner for purchasing articles from the prison canteen or for purchase from outside the jail. Therefore, unless the wages fixed and notified by the State Government from time to time under sub-rule (1) of Rule 647-B are equitable, the dual objects of the statutory provisions, namely rehabilitation of the prisoner and compensation to the victims cannot be realized."*

19) It is relevant to note that the "Act" referred to in the above cited judgment is the Prisons Act, 1894 and the "Rules" mentioned therein, the Madhya Pradesh Prisons Rules, 1968 respectively. Certain directions were ultimately given to the Madhya Pradesh government in

the said judgment, related inter alia to the fixation of reasonable and equitable wages for prisoners in terms of Rule 647-A (4) of the said Rules of 1968 and proof of compliance was directed to be furnished in respect of the said Rule and Rule 647-B (1) of the 1968 Rules.

20) Relying on the aforesaid judgment, learned counsel for the respondent seeks to highlight that, in consonance with ***State of Gujarat (supra)***, the Division Bench of the Madhya Pradesh High Court held, inter alia, that equitable wages do not necessarily mean minimum wages, but has to be worked out after deducting the expenses incurred by the government for food, clothing and other amenities provided to the prisoners from the minimum wages. The wages payable to prisoners can be in terms of the hours of work or nature of work assigned to them. It was further pointed out that the twin objects of rehabilitation of the prisoner and compensation of the victim cannot be achieved unless the wages of prisoners are reasonable and not meagre.

21) Upon hearing both parties and considering the relevant provisions of law and the cited decisions, this court arrives at the following conclusion.

22) Prison service cannot exactly be equated with normal service, outside incarceration. There are certain distinctly discerning features in the former, as compared to the latter.

23) First, prison service, if under rigorous imprisonment, is not only compulsory for the prisoner, but is mandatorily to be provided by the authorities as well. Therefore, it is not the convenience or requirement of the authorities which prompts the generation of such service, in which case the service would necessarily be associated with a reciprocal duty cast on the employer to remunerate the employee according to the general statute governing the field, that is, the Minimum Wages Act. The employment is not an option exercised by the employer as per its needs but a mandate under the statute. Since the employer as well as the employee are both forced to provide and undertake such work statutorily, the

entitlement of the employee and corresponding duty cast upon the employer cannot be on the same footing as an ordinary employment. Even prisoners undergoing simple, as opposed to rigorous, imprisonment have the option to choose work; if opted for, the jail authority/employer is bound to provide such work and does not have a choice to refuse such request, even when law does not mandate such work as a necessary corollary of the imprisonment. Thus, in cases of simple imprisonment, the rights are lopsided, the employee having the option to work or not but the employer being under statutory compulsion to provide such work, once the option crystallizes into an actual job upon a prisoner under simple imprisonment choosing it. This element of compulsion on the employer, associated with prison service, somewhat negates the bargaining power of the employer, as opposed to other employments, consequentially diluting the obligation of employers to pay the minimum rates of wages prescribed for employees under the Minimum Wages Act, which obligation is intended to set off the negative effect of such bargaining power in the hands of employers.

24) Secondly, since there is a special statute, that is, the 1992 Act, governing the incidents of prison service in the state of West Bengal, which provides for the remuneration of prisoners and working hours etc., the same overrides the general service law as far as prison service is concerned.

25) As, in the present case, committees were duly formed from time to time by the State Government for determination of rates of wages, service conditions, etc. in prison as per the law, which have already framed such rules in accordance with law, the quanta of which rates have not been challenged on the ground of being arbitrary or unreasonably low, there is no scope for application of the general statute operating in the field, that is, the MW Act.

26) Thirdly, the prisoners, during incarceration, are provided with various facilities, such as food, shelter, medical facilities, security, etc. as well by the prison authorities. Thus, it is

sufficiently justiciable to provide a reasonable rate of wages, as fixed by statutory committees, to a prisoner, which rate is arrived at upon deliberations involving concerned sections of society and social bodies and on examination of the total scenario, as well as taking into account reasonable deductions for such facilities from wages. The rates need not necessarily be equal to minimum wages as provided by the general law on the subject, because the extra facilities enjoyed by prisoners do not form a mandatory constituent of the general minimum wage structure/work conditions in employments outside prisons.

27) That apart, irrespective of the technical qualifications of prisoners otherwise, which might not have fetched them a similar job outside jails, the prison authorities are bound to broadly classify the competence of the prisoners under skilled, unskilled and/or other categories for the purpose of assigning work to them, giving weight to the prisoners' aptitude and skill. Therefore, the prisoners need not have the edge to compete and qualify for jobs, as services outside prisons, but are roughly assessed on the basis of their skills and enjoy the mandate of statutes to be assigned some job or the other as per their competence and inclination, without having to undergo the process of strict competition required for services outside prisons. The working hours of prisoners may also be less than employees other than prisoners.

28) Although the term "wages" is not defined specifically in the 1992 Act, Sections 55 and 56 thereof provide sufficient elaboration as regards the rates of wages and the working hours of prisoners, hence excluding the need to import, as an external aid of interpretation, the concept of wages as envisaged under the MW Act.

29) However, the logic, that prison service is penal in nature, does not justify the prisoners being paid less than their entitlement, since there cannot be double punishment, both in the form of imprisonment itself – whether rigorous or simple – and getting less wages than reasonable compensation for their work and rehabilitation, overlooking the additional angle

of compensation to the victim being provided from a common fund by deducting a portion from the prisoners' wages. The distilled proposition of all the cited judgments is that adequate and reasonable payment should be made to prisoners for their service for their rehabilitation and service itself, deducting the expenses for their food, clothing and other amenities provided to them. Deductions for the purpose of creating a victim compensation fund have to be limited, since the prisoner commits a crime, for most offences, against the State, the State having failed to protect the victim from the crime in the first place. As such, the State cannot avoid the responsibility of contributing a major portion of the victim compensation funds too.

30) Thus, the question raised herein, as to the applicability of the rates fixed under the MW Act being applicable to prison service, is answered in the negative. Such rates are not *per se* applicable to prison service for the reasons cited above.

31) Since, in the present writ petition, no challenge has been thrown to the rates of wages fixed by the statutory committees appointed by the State for prison service on the grounds of demonstrative arbitrariness, unreasonableness or inequality and/or the process adopted by the committees in arriving at such rates being mala fide or *de hors* the law or Natural Justice, but the only question raised is whether the rates fixed under the MW Act, are applicable to prisoners as well, there cannot be any interference by Court, as it clearly emanates from the discussions above that the rates so fixed under the MW Act, which is a general statute governing the field, cannot be applicable *per se* since the general law (the MW Act) cannot override the specific law on the field, being the 1992 Act, which contains specific modes of fixation of reasonable wages for prisoners. There is no pleading or proof on record to show that such statutory modes have not been followed by the State. As committees were formed under the 1992 Act by the State which, after taking into account all factors, fixed the wages

for prison service and such amounts are not manifestly low, there is no scope of interference with the rates fixed by the State of West Bengal through such committees for prisoners.

32) Hence W.P. No. 1181 (W) of 2020 is dismissed without costs, by granting the petitioner the liberty to challenge the rates fixed, which applied to the petitioner's tenure of incarceration, as wages for different categories of prison services by the statutory designated committees under the 1992 Act, not on the ground of being at variance with the rates fixed under the MW Act but on all other grounds, in particular, on the ground of such rates are unreasonable or arbitrary. If such a challenge is preferred, the present judgment shall not operate as res judicata, except to the extent indicated above.

33) Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)