

WPA(P) 142 of 2021
With
CAN 1 of 2021
CAN 3 of 2021
CAN 5 of 2022
Susmita Saha Dutta
Vs.
The Union of India and Ors.

With
WPA(P) 167 of 2021
With
CAN 2 of 2021
Kashinath Biswas
Vs.
Union of India and Ors.

With
WPA(P) 143 of 2021
With
CAN 4 of 2022
Anindya Sundar Das
Vs.
Union of India and Ors.

With
WPA(P) 144 of 2021
With
CAN 2 of 2021
CAN 3 of 2021
CAN 4 of 2022
CAN 5 of 2022
Priyanka Tibrewal
Vs.
The State of West Bengal and Ors.

With
WPA(P) 145 of 2021
With
CAN 2 of 2021
Pradipta Arjun
Vs.
Union of India and Ors.

With
WPA(P) 146 of 2021
Smt. Aparajita Mitra
Vs.
The Union of India and Ors.
With
CPAN 667 of 2021
Anindya Sundar Das

Vs.
 Sanjay Sarkar
 With
 WPA(P) 148 of 2021
 With
 CAN 1 of 2021
 CAN 3 of 2021
 Susheel Kumar Pandey
 Vs.
 State of West Bengal and Ors.

With
 WPA(P) 149 of 2021
 With
 CAN 2 of 2021
 CAN 3 of 2021
 Marufa Bibi and Ors.
 Vs.
 State of West Bengal and Ors.

With
 WPA(P) 147 of 2021
 With
 CAN 2 of 2021
 Kuntal Mojumder
 Vs.
 Union of India and Ors.

Ms. Priyanka Tibrewal
 petitioner in-person in WPA(P) 144 of 2021
 Mr. Ayan Poddar
 for the SIT

Mr. Subir Sanyal
 Ms. Sumouli Sarkar
 for NHRC in WPA(P) 144 of 2021

Mr. Nilanjan Bhattacharjee
 Mr. Sukanta Chakraborty
 Mr. Dipanjan Sinha Roy
 Mr. Debu Chowdhury
 for the petitioner in WPA (P) 145 of 2021

Mr. Samim Ahammed
 Ms. Gulsanwara Pervin
 for the petitioners in WPA(P) 149 of 2021

Mr. Rabi Sankar Chattapadhyay
 Mr. Sourav Bandyapadhyay
 Mr. Aurobinda Majhi
 for the petitioner in WPA (P) 167 of 2021

Mr. S.N. Mookherjee, AG
 Mr. Anirban Ray,GP
 Mr. Raja Saha
 Mr. Debashish Ghosh
 Mr. Nilotpal Chatterjee
 for the State

Ms. Amrita Pandey
Mr. Arijit Mazumder

... ... for the Union of India

Mr. S. V. Raju, ASG
Mr. K. C. Mishra
Mr. Kallol Mondal
Mr. Samrat Goswami

... ... for the CBI

Affidavit of service filed by the CBI is taken on record.

Learned Additional Solicitor General referring to the order dated 20.04.2022 in WPA(P) 142 of 2021 has submitted that in respect of the murder case of Mathabhanga P.S. FIR 180 of 2021 dated 10th April, 2021 and Mathabhanga P.S. FIR 181 of 2021 dated 12th April, 2021 the request was made to hand over the cases to the CBI and in pursuance to the direction of this Court dated 20th April, 2022 the copy of the report along with the concerned letter and reminder were also supplied to the learned Advocate General but till now these two cases have not been handed over to the CBI.

Learned counsel for the State has submitted that there was some delay in receiving the papers by the learned Advocate General, therefore he is in the process of examining the same and needful will be done before the next date of hearing.

Learned counsel for the CBI has also submitted that there was no delay on the part of the CBI to furnish the requisite documents in terms of the order dated 20th

April, 2022 as the same were furnished within two days, i.e., on 22nd April, 2022.

The Sixth status report at the instance of the CBI has been filed today.

Learned Counsel for the CBI submits that at the time of filing of CAN 5 of 2022 only 9 cases were registered on the basis of individual complaints but at the time of filing Sixth status report showing the position of 13th May, 2022, 11 such cases were registered.

Learned Additional Solicitor General referring to the paragraph 18 on page 29 of the report relating to the murder of Rabindranath Manna concerning the case registered in P.S. Nandigram, District-Purba Medinipur has submitted that concerned ACJM, Haldia has rejected the prayer of the CBI on 10.05.2022 for permission to allow further investigation. His submission is that such an order of the ACJM, Haldia runs counter to the paragraph 82 (one of the order of the Full Bench of this Court dated 19th August, 2021 in WPA (P) 142 of 2021). He seeks time to produce a copy of the order dated 10th May, 2022 passed by the ACJM, Haldia and other relevant papers in this regard.

Learned Counsel for the SIT has also produced the status report in continuation with the report submitted on 25th January, 2022.

Annexure-A to the report is in respect of the cases being investigated by the SIT. It is disclosed that in all 689 cases were registered in the State of West Bengal. 40

cases were handed over to the CBI. After due investigation out of 689 cases, charge sheets have been filed in 585 cases and closure reports (FRT/FRMF) have been filed in 64 cases and as on today no case is under investigation before the SIT relating to the cases directly investigated by the SIT.

Annexure-B to the report contains the details of 44 complaints returned from the CBI. It is pointed out that out of these 44 complaints, charge sheets have been filed in 35, FRMF - 01, NCR- 01, UD-01 and one is under investigation and report is yet to be received in respect of remaining 05.

The status reports filed by the CBI and SIT are taken on record.

CAN 5 of 2022 in WPA(P) 144 of 2021 has been filed by the State of West Bengal with a plea to restrain the NHRC from involving the 11 members of NHRC with the enquiry as directed by the order dated 20th of April, 2022 by this Court in WPA(P) No. 144 of 2021.

Submission of learned Advocate General is that this Court has constituted a three member Committee to consider the cases of the persons allegedly displaced during the elections and post poll violence but NHRC had sent the communication dated 10th of May, 2022 to the Chief Secretary of the State in respect of visit of 11 members team which is contrary to the order of this Court and if the Committee constituted by this Court wanted to have any supporting team, then they should

have approached this Court for appropriate order and that the team is comprising of the officers, therefore, it cannot be said to be a team for the ministerial job.

Learned Counsel for the Committee has submitted that the West Bengal Human Rights Commission does not have sufficient manpower and considering the large number of complaints which have been received and are being received the supporting staff is necessary and having regard to the variety of work which is to be done by the supporting staff a team of the officers has been constituted. He has further submitted that in order to avoid any conflict, the team of independent staff has been prepared to support the work and the Committee constituted by this Court is acting strictly in terms of the order of this Court.

Learned Counsel for the petitioner has also submitted that by filing this application the State is trying to make out ground for ultimately challenging the report of the Committee.

Having heard the learned Counsel for the parties and on perusal of the record, it is noticed that this Court by order dated 20th of April, 2022 passed in WPA(P) 144 of 2021 has constituted a three member Committee comprising of the following:

- “1. A Member/nominee of the National Human Rights Commission;
2. A Member/nominee of the West Bengal Human Rights Commission; and

3. Secretary, West Bengal State Legal Services Authority.”

The Committee has been entrusted to inquire into the right of the displaced persons of rehabilitation and to return back to their place of adobe and place of work. The petitioner was permitted to file complaints/affidavit of the displaced person before the Committee.

On 20th of April, 2022, the stand of the West Bengal Human Rights Commission before this Court was that the Commission did not have sufficient manpower and was short of funds.

Along with the affidavit of opposition filed on behalf of the three member Committee a copy of the communication dated 11th of May, 2022 has been placed on record stating that the task of inquiry into hundreds of displaced persons is a gigantic task for which supporting staff is required for ministerial and to otherwise assist the Committee. It takes note of the fact that SLSA will also provide some supporting staff to the Committee but that would not be adequate, therefore, the members of the Committee had decided to have 11 persons of NHRC to assist the Committee in discharging its function.

The stand of the Committee in the affidavit in opposition before this Court is that around 400 complaints were initially placed before the Committee and it has been pointed out that many more complaints

are coming, therefore, it was impossible for the Committee to deal with these complaints without the supporting staff. The affidavit in opposition clearly states that supporting staff of 11 officials from NHRC is for ministerial purpose and that the Committee has not delegated its essential function to inquiry to the supporting staff. The supporting staff is only for the purpose of ministerial job so as to ensure that there is no repetition of complaints, taking note of the complaints received from the complainants, verifying documents such as identity cards etc., taking photographs of damaged houses and also videography of the statement made by the complainants and to work as translator etc.

In the above circumstances, we do not find that the Committee is acting beyond the order of this Court. Since, an apprehension has been expressed by the State, therefore, we make it clear that though the Committee can take the assistance of the supporting staff for ministerial work but the essential work of inquiry into the right of the displaced persons for rehabilitation etc. will not be delegated by the Committee constituted by this Court in other person or any group of persons.

CAN 5 of 2022 in WPA(P) 144 of 2021 is accordingly disposed of.

Re. CPAN 667 of 2021

Learned Counsel for the petitioner has filed CD of the video recording along with the supplementary

affidavit in support of averments made in the contempt petition. Supplementary affidavit is taken on record.

List on 21st of June, 2022.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)