

May 13, 2022
Sl. No.2-8
Court No.1
s.biswas &
PA - RB

WPA (P) 130 of 2022

*The Court on its own Motion
In re: The Brutal Incident of Bogtui Village,
Rampurhat, Birbhum*

With

WPA (P) 124 of 2022

*Anindya Sundar Das
vs.
Union of India and others*

With

WPA (P) 125 of 2022

*Tarunjyoti Tewari
vs.
Union of India and others*

With

WPA (P) 126 of 2022

*Priti Kar
vs.
The State of West Bengal and others*

With

WPA (P) 129 of 2022

*Sayanti Sengupta
vs.
The State of West Bengal and others*

With

WPA (P) 133 of 2022

*Priyanka Tibrewal
vs.
Union of India and others*

With

WPA (P) 138 of 2022

and
CAN 1 of 2022

Bharatiya Shanti Das and another
vs.
The State of West Bengal and others

Mr. Samim Ahammed,
 Ms. Gulsanwara Pervin, Advocates
 ... for the intervenor
 in WPA (P) 130 of 2022

Mr. Sabyasachi Chatterjee,
 Mr. Sayan Banerjee,
 Mr. Badrl Karim,
 Ms. Debolina Sarkar, Advocates
 ... for the intervenor
 in WPA (P) 130 of 2022

Mr. Phiroze Edulji,
 Mr. Debapriya Samanta,
 Ms. Avipsa Sarkar,
 Mr. Subhadeep Chatterjee, Advocates
 ... for the petitioner
 in WPA (P) 124 of 2022

Mr. Kumar Jyoti Tewari,
 Mr. Arijit Majumdar,
 Mr. Aniruddha Tewari, Advocates
 ... for the petitioner
 in WPA (P) 125 of 2022

Mr. Koustav Bagchi,
 Mr. Debayan Ghosh, Advocates
 ... for the petitioner
 in WPA (P) 126 of 2022

Ms. Priyanka Tibrewal
 ... Petitioner in-person
 in WPA (P) 133 of 2022

Mr. S. R. Das
 Mr. K. P. Mukhopadhyay,
 Mr. Sayantan Rakshit, Advocates
 ... for the petitioners
 in WPA (P) 138 of 2022

Mr. Dhiraj Trivedi, Id. Asst. Solicitor General
 Mr. Rishav Kumar Thakur, Advocates
 ... for the respondent/CBI
 in WPA (P) 125 of 2022

Mr. Billwadal Bhattacharyya, Id. Asst. Solicitor General
 Mr. Samrat Goswami,
 Mr. Debu Chowdhury, Advocate
 ... for the CBI
 in WPA (P) 126 & 129 of 2022

Mr. S. N. Mookherjee, Id. AG
 Mr. Samrat Sen, Id. AAAG
 Mr. Anirban Ray, Id. GP
 Mr. Md. T. M. Siddiqui,
 Mr. Debashis Ghosh,
 Mr. Nilotpal Chatterjee, Advocates
 ... for the State

Ms. Amrita Pandey, Advocate

... for the Union of India

Supplementary affidavit filed on behalf of the petitioner in respect of WPA (P) 126 of 2022 is taken on record.

Affidavit filed by the C.B.I. is also taken on record.

A prayer has been made by learned Counsel for the CBI as also learned Counsel for the petitioners for cancelling the order of Principal Magistrate, Juvenile Justice Board, Birbhum at Suri dated 25th April, 2022 granting bail to two minor accused persons in the case.

Submission of learned Counsel for the CBI as also Counsel for the petitioners is that learned Principal Magistrate at the earlier occasion, while passing the order dated 12th April, 2022, had rejected the bail and had directed to produce the Child in Conflict with Laws (for short 'CCL') before the Board on 25th April, 2022. Thereafter, copy of no fresh bail application was served to the learned Counsel for the CBI. No direction was issued to produce the case diary and without any opportunity of hearing to the CBI, bail has been granted on 25th April, 2022. He further submits that no enquiry has been conducted by the Court to ascertain if the two accused persons are juvenile and that there was no change in circumstances after rejection of the bail application on 12th April, 2022. It is further submitted that in the aforesaid background, CBI had filed an application for

cancellation of bail which has also been rejected by order dated 30th April, 2022 on incorrect factual and legal premises. It has also been submitted that the Juvenile Justice Board (for Short 'JJB') has power to cancel the bail under Section 439(1)(b) of the Cr.P.C.

We have heard the learned Counsel for the parties. We find that against the order of the JJB dated 25th April, 2022 granting bail and against the order dated 30th April, 2022 rejecting the application for cancellation of bail filed by the CBI, the aggrieved party has remedy of filing a revision before the High Court under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, 'the Act of 2015') which provides as under:

“102. Revision.-The High Court may, at any time, either on its own motion or on an application received in this behalf, call for the record of any proceeding in which any Committee or Board or Children's Court, or Court has passed an order, for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit:

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.”

In this case bail has been granted under Section 12 of the Act of 2015, therefore, remedy of revision under Section 102 of the Act of 2015 is available.

Since an appropriate remedy of revision against the orders in question is available, therefore, this Court is of the opinion that in the facts of the present case, it would be more appropriate for the parties to avail that remedy. All the grounds which have been raised before this Court assailing the orders of the JJB can be raised in the revision petition and we are hopeful that if any such revision petition is filed, the same will be duly considered and decided in accordance with law after considering the grounds raised therein.

It is also worth noting that though the arguments have been advanced on the basis of the documents filed along with the supplementary affidavit by the CBI but no formal application on its behalf with a prayer to cancel the bail has been made before this Court.

Hence, it is held that since any of the aggrieved party including the CBI has a remedy under Section 102 of the Act of 2015, therefore, oral prayer in this regard cannot be granted. Hence, the CBI and concerned parties are granted liberty to avail the remedy as provided in the Act of 2015.

List on 07.06.2022.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]