30-09-2022
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WPA 22496 of 2022

J.H.M. Overseas Private Limited
-Versus-
The State of West Bengal & Ors.

Mr. Kishore Dutta, ld. Sr. Adv.,
Md. Sabir Ahmed,
Mr. Swagata Biswas,
Mr. Abdur Rakib
...for the petitioner

Ms. Sutapa Sanyal,
Ms. Joyee Maiti
...for the State

Mr. Subhankar Chakraborty,
Mr. Saptarshi Bhattacharjee,
Ms. R. Manna
...for the respondent no.4/Bank

The petitioner is aggrieved by an order passed by the Raghunathganj Police Station freezing his bank account on three-fold grounds.

That in respect of FIR being No. 731 of 2019 dated November 24, 2019, the Central Bureau of Investigation has also commenced investigation being R.C. Case No. 19 of 2020. By reference to a decision of a Division Bench of this Court passed in WPA (P) No. 493 of 2022 dated September 27, 2022, it is submitted that the investigation into the FIR 731 of 2019 has been restricted and hence the CID, West Bengal cannot investigate the cattle smuggling matter any further. Therefore, the order

of freezing of the petitioner's bank account should be lifted.

Reference is also made to two decisions of this Court dated September 27, 2022 passed in WPA 21788 of 2022 (Jitendra Kumar Tiwari & Anr. Vs. The State of West Bengal & Ors.) and order dated September 29, 2022 passed in WPA 21927 of 2022 (Firoja Health Care Trust Vs. The State of West Bengal & Ors.).

It is next submitted that even assuming that the State may want to continue investigation, the order of freezing should be modified to permit the petitioner to operate bank account leaving behind a fixed amount since the transaction already made therein, cannot now be tampered with.

Counsel for the State questions the jurisdiction of this Court under Article 226 of the Constitution of India to deal with the order of freezing since the petitioner has effective alternative remedy under the Cr. P.C. either in the Court below or inter alia under Section 482 of the Cr. P.C. before the High Court.

Indeed, on the question of alternative remedy, there is serious doubt as to whether the Court can at all entertain the writ petition. As to whether the writ petitioner herein can get the benefit of defreezing of accounts, that is a result of

a pending or further investigation by any agency, also cannot be addressed by this Court without calling for appropriate affidavit.

It also prima facie appears to this Court that the issues before the Hon'ble Division Bench, arose in a completely different context which cannot be taken advantage of by the writ petitioner.

This Court is of the view that the CBI is a necessary party to the instant writ petition. Let the CBI be added as party respondent to this writ petition. The learned advocate on record shall effect amendment in the cause title in course of the day.

Let service be effected on the CBI. The CBI shall also be entitled to file affidavit in the matter in terms of the directions already passed hereinabove.

Keeping the question of entertainability of the writ petition open, let affidavit-in-opposition be filed by the respondent authorities, within a period of 3 weeks after reopening of this Court after the long 'Puja Vacation'. Reply, if any, be filed within a period of 2 weeks thereafter.

Liberty to mention for hearing after completion of all pleadings.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)