

D/L 3
26.06.2025
ct.no.35
Kausik

W.P.A. 30365 of 2024
With
CAN 1 of 2025

X and Anr.
Versus
Union of India & Ors.

Mr. Phiroze Edulji, Sr. Adv.
Ms. Soumili Choudhury

...for the petitioners.

Mr. Suman Sengupta
Mrs. Amrita Panja Moulick

...for the respondent no.5.

Mr. Indrajeet Dasgupta
Ms. Debjani Ghosal
Ms. Sanchayita Das

...for the Union of India.

Mr. Kalyan Bandyopadhyay, Sr. Adv.
Mr. Swapan Banerjee
Mr. Sirsanya Bandopadhyay
Mr. Diptendu Narayan Banerjee
Mr. Arka Nag

...for the State.

Mr. Rajdeep Majumder, Sr. Adv.
Mr. Amajit De, Special PP, CBI

...for the CBI.

Mr. Edulji, learned senior advocate appearing for the petitioner has sought for permission to visit the site at R.G. Kar Medical College and Hospital along with his juniors as he is freshly entered appearance in connection with the

writ petition which has been preferred before this Court. Learned senior advocate has pointed out that he intends to visit the site of occurrence of crime except the seminar room at R.G. Kar Medical College and Hospital.

Mr. Edulji, learned senior advocate has further contended that since C.R.P.F. is in charge of security of the said hospital such permission is warranted from a court of law.

Mr. Majumder, learned DSGI appearing for the CBI has left to the discretion of the Court. However, it has been submitted on behalf of the CBI that further investigation is being continuing and periodical reports are being filed before the learned ACJM, Sealdah and the jurisdictional Court is already in seisin of the issue.

Mr. Bandyopadhyay, learned senior counsel appearing on behalf of the State raises objection in respect of the application preferred by the petitioner and submits that in case the petitioner intends to advance prayers for re-investigation the same should be followed with a prayer for setting aside whole of the investigation and the consequences thereof from the inception. It is additionally submitted on behalf of the State that the petitioner cannot obliquely advance prayers without the main prayer being

settled so far as his demand before the writ court is concerned, as to whether the petitioners are intending to have further investigation or a fresh investigation from the very first day when the unfortunate incident took place.

Additionally, it has been contended that the petitioner's lawyer do not have a right to visit the place of occurrence as the investigation is carried out by a specialized agency. Even if the right was available to the petitioner's advocate they have wasted their chance since the trial of the case is over and no prayer was advanced in course of the trial either before the learned Magistrate or before the learned Sessions Court who conducted the trial.

Be that as it may, since the further investigation is being carried out by the CBI and the learned ACJM, Sealdah is in seisin of the issues and the application as such is in its original form, I am of the opinion that no order can be passed without the learned ACJM, Sealdah being kept informed.

Accordingly, I direct the petitioner to take out a similar application before the learned ACJM, Sealdah. Learned ACJM, Sealdah would within a period of 48 hours dispose of the application by issuing notice to all necessary parties.

Since State is a party to the writ petition, if State prays for any audience before the learned ACJM, Sealdah so far as this issue is concerned, the learned Magistrate would exercise its discretion whether to afford any audience to the State.

So far as the main writ petition is concerned, the respondents being the CBI and the State, if they intend to use any affidavit-in-opposition, such affidavit-in-opposition be filed by 24.07.2025. Affidavit-in-reply, if any, be filed by 11.08.2025.

Let the writ petition appear under the heading 'Hearing' on 18.08.2025 at 4.00 p.m.

Accordingly, CAN 1 of 2025 is disposed of.

All parties including the learned ACJM, Sealdah will act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)