

Form No. J.(2)
Item No. 2

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 28.08.2024

DELIVERED ON: 28.08.2024

**CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNAMAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**W.P.A. (P) 235 of 2024
With
I.A. No. CAN 1 of 2024**

**Sanjoy Das
Vs.
Registrar General, Hon'ble High Court
at Calcutta & Anr.**

Appearance:-

**Mr. Radha Mohan Roy
Mr. Somenath Sanyal**

.....for the petitioner

**Mr. Swapan Banerjee
Mr. Debottam Das**

.....for the State

Mr. Saikat Banerjee

**.....for the Registrar General,
High Court, Calcutta**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNAMAM, C.J.)

1. This writ petition was filed as a public interest litigation by one Sanjoy Das, son of Sri Haru Das. In the writ petition, the petitioner in paragraph 2 has stated that he is an advocate by practice and a law abiding citizen of this country; and has about 10 years of experience at the Bar and has been associated with many matters, which have brought about social impact and

have made a difference in the lives of the common people. In paragraph 3, the petitioner would state that he is a public spirited person and has devoted his life for the purpose of addressing various social causes including upliftment of the poor and the needy.

2. The prayers sought for in the writ petition is to issue a writ of Mandamus commanding the Registrar General of this Court to modify the notification dated May 24, 2024 sofar as it assigns the Roster/Determination of presiding over police inaction/over action related matters to a particular Single Bench of this Court.
3. The matter was moved during the Summer Vacation before the Hon'ble Division Bench and by order dated June 6, 2024, the Hon'ble Division Bench passed the following order:

“The petitioner questions the determination given to an Hon'ble Single Jude of this Court by the Hon'ble Chief Justice.

At this juncture, we are not inclined to enter into the merit of this writ petition since we are more concerned with the issue as to whether the allotment of determination by the Hon'ble Chief Justice can be subject to judicial review.

Let the matter be placed before the regular Bench for further hearing.”

4. As could be seen from the above order, the Hon'ble Division Bench had expressed its concern, namely, whether the allotment of determination by the Hon'ble Chief Justice can be subject to judicial review. The matter was directed to be placed before the regular Bench for further hearing. Subsequently, Mr. Radhamohan Ray, learned advocate appearing for the petitioner circulated a letter dated June 10, 2024 addressed to the Registrar General referring to the mention made before this Court on June 10, 2024 to enable the matter to be heard on an urgent basis.

5. When the matter was mentioned before this Court, Mr. Radhamohan Ray was advised to go through the legal position on the subject as to whether the allotment of determination of cases by the Chief Justice can be subject to judicial review. It appears that this advice was not well taken by Mr. Ray and subsequently, one of his colleagues Mr. Somenath Sanyal appeared before this Court and mentioned the matter for early listing. The same advice given to Mr. Ray was also given to Mr. Sanyal to go through the legal position. Mr. Sanyal was also advised to ensure the presence of Mr. Sanjoy Das, the writ petitioner before this Court on the next hearing date.
6. Subsequently, also there was a mention for early hearing and the matter was running in the list. Subsequently, the learned advocate for the petitioner sought to withdraw the writ petition on the ground that the relief sought for stands satisfied as there was change of determination by a subsequent notification issued by the High Court. This prayer was refused and the matter has been listed today.
7. We have heard Mr. Radhamohan Ray, learned advocate appearing for the petitioner. As directed, the petitioner is present in Court. Since the petitioner in the writ petition had stated that he has been associated with many matters, which have brought about social impact and have made a difference in the lives of common people and that he is a public spirited person and has devoted his life for the purpose of addressing various social causes including upliftment of the poor and needy, the Court queried the writ petitioner Sanjoy Das to place before this Court as to what was done by him, which have brought about social impact and have made a difference in the lives of common people and as to how he claims himself to be a public spirited man

and how he has devoted his life for the purpose of addressing various social causes including upliftment of the poor and needy. The answer to the query was an emphatic no or stoic silence. Thus, it is clear that what has been stated by the writ petitioner in paragraphs 2 and 3 is absolutely false and unbecoming of a person in the legal profession.

8. Going to the main issue as to whether a writ petition with a prayer, as sought for, was maintainable, we need not labour much on that as we are guided by several decisions of the Hon'ble Supreme Court. In **State of Rajasthan v. Prakash Chand & Ors.** reported in **(1998) 1 SCC 1** the Hon'ble Supreme Court has clearly stated that the administrative control of the High Court vests in the Chief Justice of the High Court alone. This decision was taken note of in **Campaign for Judicial Accountability and Reforms v. Union of India & Anr.** reported in **(2018) 1 SCC 196**, wherein the Hon'ble Supreme Court observed that as far as the Roster is concerned, as has been stated in Prakash Chand, the Chief Justice is the Master of the Roster and he alone has the prerogative to constitute the Benches of the Court and allocate cases to the Benches so constituted.
9. In the said decision, it was further pointed out that there cannot be any direction to the Chief Justice of India as to who shall be sitting on the Bench or who shall take up the matter as that touches the composition of the Bench.
10. Further, it is pointed out that the authority which is conferred upon the Chief Justice, it must be remembered, is vested in a high Constitutional functionary. The authority is entrusted to the Chief Justice because such an entrustment of functions is necessary for the efficient transaction of the administrative and judicial work of the Court. The ultimate purpose behind

the entrustment of authority to the Chief Justice is to ensure that the Supreme Court (Court) is able to fulfil and discharge the Constitutional obligations which govern and provide the rationale for its existence.

11. The Constitution Bench of the Hon'ble Supreme Court in **Indore Development Authority (Recusal Matter-5J) v. Manohar Lal & Ors.** reported in **(2020) 6 SCC 304** held that *"if requests for recusal are acceded to for the asking, litigants will be unscrupulously taking over the roster-making powers of the Chief Justice and that would tantamount to interference with the judicial system, by the mighty to have a particular Bench by employing several means and putting all kinds of pressures from all angles all around."*
12. There are other decisions also on the very same issue and it has been conclusively held that the right of the Chief Justice in finalising the determination cannot be tinkered with at the option of a petitioner and more particularly, in the case on hand by an advocate, stated to be practising before this Court.
13. Despite being advised to look into the legal position, the advice fell into deaf ears and was not taken in the right spirit. Therefore, we are of the clear view that the writ petition was a clear abuse of the process of Court. It is probably an attempt to intimidate the Court and to directly interfere with the jurisdiction of the Chief Justice in finalising the Roster. Apart from that, we had already pointed out that the writ petitioner has made false statements claiming to be a public spirited man and having served the cause of the people and there was nothing on record to indicate so nor the petitioner, who was present in Court today has been able to say anything about as to how he

is a public spirited person and how he has devoted his life for the poor and needy. Therefore, the writ petition has to be dismissed.

14. The High Court at Calcutta framed Rules relating to applications under Article 226 of the Constitution of India. Chapter 2 of the said Rules deals with Public Interest Litigation. Rule 55 states that the Rules incorporated in this Chapter will be applicable only to public interest litigation defined in Rule 56 in addition to those contained in Chapter-I. Rule 56 defines public interest litigation to include a litigation the subject-matter of which is a legal wrong or a legal injury caused to a person or to be a determinate class of persons by reason of violation of any Constitutional or legal right or any burden imposed in contravention of any Constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is, by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the Court for relief, and for redressal of which any member of the public not having any personal interest in the subject-matter presents an application for an appropriate direction, order or writ in this Court under Article 226.
15. The Rule also contains a second limb, which commences with a *non-obstante clause*, which will not be applicable to the case on hand. As could be seen from the writ petition, the petitioner cannot bring the case under the definition of 'public interest litigation' as defined under Rule 56 of the said Rules. Therefore, this is one other ground on which the writ petition has to be summarily dismissed.

16. Having found that the writ petitioner has abused the process of this Court and attempted to intimidate the office of the Chief Justice and made false statements about himself in the writ petition and in spite of having been advised to examine the legal position, not taken the advice in the proper spirit, we have no other option except to dismiss the writ petition with exemplary costs.
17. At this juncture, we may refer to Rule 61 of the said Rules. The said Rule deals with the power of the Court to take appropriate action in case a public interest litigation is found to be frivolous. The Rule states that if a Division Bench while disposing of a public interest litigation initiated in terms of Rule 57 of the said Rules finds the same is a frivolous one or made with *mala fide* intention or both, it may not only impose exemplary costs against the petitioner but also debar him from presenting any public interest litigation in future before this Court for such a period as it thinks fit.
18. We have recorded reasons as to why we have come to the conclusion that the writ petition is absolutely frivolous. It is with a view to intimidate the office of the Chief Justice, which obviously would show *mala fide* intentions and, therefore, the Court will be well-justified in dismissing the writ petition with exemplary costs on the writ petitioner and also to consider as to what other order that should be passed against the writ petitioner in terms of Rule 61 of the said Rules.
19. For the above reasons, the writ petition is dismissed with costs of Rs.50,000/- payable to the West Bengal State Legal Services Authority by the writ petitioner within ten days from the date of receipt of server copy of this judgment and order.

20. Considering the reasons set out above and the conduct of the writ petitioner, who is stated to be an advocate practising in Kolkata, this is a fit case where the power under Rule 61 has to be exercised and accordingly, the same is exercised and the petitioner is debarred perpetually and eternally from presenting any public interest litigation in future before this Court.

21. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)