

23.08.2024

**WPA 21396 of 2024**

**Akhtar Ali  
Vs.  
The State of West Bengal & Ors.**

Mr. Kumarjyoti Tewari  
Mr. Brajesh Jha  
Mr. Tarunjyoti Tewari  
Mr. Amrit Sinha  
Mr. Aniruddha Tewari  
Ms. Koushiki Bose

... .. for the Petitioner

Mr. Amitesh Banerjee, Ld. SSC  
Ms. Ipsita Banerjee  
Mr. Debangshu Dinda

... for the State

Mr. Dhiraj Trivedi, Ld. DSGI  
Mr. Arijit Chakraborty  
Mr. Ankit Khanna

...for the respondent Nos.2 & 3

Mr. Ashok Kumar Chakraborty, Ld. ASG  
Mr. Amajit Dey, Special PP, CBI

... ..for the respondent No.4

Mr. Bisaroop Bhattacharya  
Mr. Md. Zohaib Rauf  
Mr. Sumitava Chakraborty

...for the intervener in CAN 1 of 2024

**1.** Supplementary affidavit has been filed by the petitioner and the same be kept with the record.

**2.** Learned counsel appearing for petitioner being the former Deputy Superintendent (Non- Medical) at R.G. Kar Medical College and Hospital, Kolkata submits that in an effort to expose the persistent irregularities in the ethical practices and operations of R.G. Kar Medical College and Hospital from the year 2020 to 2023, the petitioner lodged a complaint to the Deputy Inspector General of Police (DIG), Anticorruption Branch, West Bengal on 13<sup>th</sup> July, 2023. The afore-mentioned complaint encompassed the following particulars:

*“To,*

*The Deputy Inspector General of Police,  
Anticorruption Branch , West Bengal,*

*Sub: Complaint against Dr. Sandip Ghosh, Principal, R.G. Kar Medical College and Hospital, Dr. Sanjoy Vashisth, MSVP, R. G. Kar Medical College and Hospital, Dr. Debasis Som, , demonstrator, Department of Forensic Medicine and Toxicology regarding massive corruption illegal transfer of Officers for money and mis-utilization of Government funds and selling of used hazardous bio-medical Wastes.*

*Respected Sir,*

*Most respectfully and humble submission, I beg to state that Dr. Sandip Ghosh, Principal, R.G. Kar Medical College & Hospital, Kolkata Dr.Sanjoy Vashisth, MSVP, R.G. Kar Medical College & Hospital, Dr. Debasis Som, Demonstrator, Department of Forensic Medicine others are involved in corruption and illegal activities and I like to submit following complaint against them with documentary evidences.*

**1) Squandering of Government Money.**

**2) Illegal giving out of assets of the Government without prior approval of Swasthya Bhavan and College Council (like food Stalls, Cafe, Canteen, Sulabh complex etc. without tender and permission from Higher authority).**

**3) Serious nepotism in selecting the venders, only three venders named Suman Hazra, Biplob Singha, and Afsar Khan are getting orders.**

**4) Quotations amount to crores of rupees were given out only to a few of the favorite bidders who were not even eligible to get the bid.**

**5) Evading financial rules deliberately,**

**6) Overruling the Account Officers, note to do favor to the bidders.**

**7) Civil and Electrical works were made to do by third parties and NOT by the PWD.**

**8) Misappropriation of Academic Fund**

**9) Deliberate and illegal breaking up of work orders to keep it below 1 lakh so that the process of e-tender**

**10) Illegal selling of Used Hazardous Biomedical Wastes like through his Additional Security Personnel**

**11) Running of Be-nami Business in form of collection of Two Wheeler Parking by passing of KMC or Government's authority, Running of Canteen in Boy's Main Hostel, Very New Ladies Hostel, and a Café within the hospital campus.**

**12) Malpractice while recruiting Contractual employees, (Video will be produced on request regarding manipulation of Broad sheet)**

**13) Illegal transfer of officers of MES Services for monetary benefit and Dr. Tanuasree Mondal, Ex-Deputy Director of Medical Education is also involved with them.**

**14) Collection of bribe @ 20% from the venders. (witness or Audio recording will be produced when require**

**15)** *Mis-utilisation of Covid fund for creation of Gym and furnishing of office chamber by procurement Revolving Executive Chair, Sofa, dining table, Refrigerator etc and I like to inform you that I tried to bring to the notice of Head Quarters few month ago but these things before the Swasthya Bhavan but, Dr. Sudipta Roy, Chairman, West Bengal Health Recruitment Board threatened me for termination from job. Dr Subhabrata Das, DADHs also threatened me several times. I further like to submit that Il know as know certains facts about Dr. Sudipta Roy, He quite and often used to take Hospital consumables to his own Nursing Home at Sinthi More and I know all facts including other malpractices and advantages he took from Vendors like maintenance of his Garden (Bagan Bari), renovation of his nursing Home by taking advantage from Vendors and many more. Now I am targeting and getting life threat and dismissal from job. In view of above mentioned facts. I humbly request you to do justice with me, and I shall remain grateful to you and you are the only hope for me in this darkness.*

*Yours faithfully,*

*Akhtar Ali,*

*Deputy Superintendent, West Bengal Health Recruitment Board,*

*Ex-Deputy Superintendent*

*R.G. Kar Medical College & Hospital, Kolkata”*

**3.** The petitioner tendered documentary evidence to corroborate the claims of massive corruption, improper utilization of Government funds, selling of used hazardous bio-medical waste and transfer of officers for monetary benefit. Owing to which the petitioner requested the concerned police authority to conduct a comprehensive investigation and enquiry into the purported irregularities, emphasizing the serious ramification of such illegal activities upon public health and safety as well as misappropriation of public funds. The State respondents opted to remain silent regarding the matter thereby taking no action to investigate or redress the situation except a letter dated 20<sup>th</sup> July, 2023 and subsequently, the matter came to a standstill.

“Govt. of West Bengal  
DIRECTORATE OF ANTI CORRUPTION BRANCH  
9<sup>th</sup> Floor, ‘A’ Block, New Secretarial Building  
1, Kiran Sankar Roy Road, Kolkata-700 001  
Phone No 033-2262-5040 & 5145

Memo No. /DIG/ACB( C)/262/2023      Date: 07.2023

To  
The Pr. Secretary  
Govt. of West Bengal,  
Health & Family Welfare Department,  
Sasthya Bhawan,  
GN-29, Sector-V,  
Salt Lake,  
Kolkata-700091.

**Sub: Forwarding of a complaint**

Sir,

Please find enclosed herewith a complaint of One Akhtar Ali, Deputy Superintendent, West Bengal Health Recruitment Board, Ex-Deputy Superintendent, R.G. Kar medical College & Hospital, Kolkata, received in this office on 13.07.2023, which is self-explanatory.

I am directed to request you that necessary action, as deem fit, may be taken at your end. Dte. Of ACB, WB has not conducted any enquiry/investigation into this complaint. It is also requested to favour Dte. Of ACB with a report if any corruption angle transpires in the enquiry for taking further action from this end.

Yours faithfully,

Sd/-

(Dy. Inspector General of Police)

Dte. Of Anti Corruption Branch

West Bengal

Enclo: Original petition alongwith all enclosures.

Copy forwarded to.....

MemoNo.94/1/(1)/DIG/ACB(C)/262/2023      Date:20.07.2023

1) Akhtar Ali, Deputy Superintendent, West Bengal Health Recruitment Board, Ex-Deputy Superintendent, R.G. Kar Medical College & Hospital, Kolkata.

Sd/-

(Dy. Inspector General of Police)

Dte. of Anti Corruption Branch

West Bengal”

4. Learned counsel demands an explanation behind the constitution of a Special Investigation Team (SIT) to conduct investigation into the allegations of financial irregularities at R.G. Kar Medical College and Hospital only after a significant lapse of time from the date of filing of the complaint but subsequent to the unfortunate incident at R.G. Kar Medical College and Hospital on 9<sup>th</sup> August, 2024. The details of such notification are as follows:

*“Government of West Bengal  
Home and Hill Affairs Department  
Internal Security Branch, Secret Cell  
“NABANNA”*

*325, Sarat Chatterjee Road, Howrah-711 102*

*No.1066/ISS/PL/0/SECRET/2M-02/2021*

*Dated Howrah the 16<sup>th</sup> August, 2024*

**NOTIFICATION**

*I am directed hereby to constitute a Special Investigation Team (SIT) to conduct enquiry/investigation into the allegations of financial irregularities in R.G. Kar Hospital during the period between January 2021 till date.*

*The SIT will have the liberty to access any relevant documents from the govt. departments and private agencies required for expeditious completion of the enquiry.*

*The SIT will be headed by Dr. Pranav Kumar, IPS, Inspector General of Police, Swami Vivekananda State Police Academy, who will be assisted by the following:*

- 1. Shri Waquar Reza , IPS, DIG, Murshidabad Range;*
- 2. Ms. Soma Das Mitra, IPS, DIG, CID;*
- 3. Shri Indira Mukherjee, IPS, DC Central, Kolkata Police*

*The SIT will requisition the services of other officers and staff as and when required from Police Directorate/ Kolkata Police.*

*The SIT will submit its first report to the State Government within a month from the date of its constitution.*

*Sd/-*

*Special Secretary to the Government of West Bengal”*

5. Therefore, it has been submitted that the formation of a Special Investigation Team (SIT) substantiates the petitioner's allegations of gross irregularities and establishes a nexus with the unfortunate incident that necessitated the constitution of a Special Investigation Team (SIT) to investigate the said irregularities.

6. The petitioner, thereafter, filed a complaint/reminder on 20<sup>th</sup> August, 2024 before the Officer-in-Charge, Tala Police Station and requested for providing him with necessary police protection but no steps have been taken by the police authorities till date.

7. Learned counsel appearing for the State disputes the allegation of police inaction pointing out that the police duly forwarded the complaint made by the petitioner in the year 2023 to the Health and Family Welfare Department, Government of West Bengal being the appropriate authority in the case. However, it remains uncertain whether the Department has taken any concrete steps in this regard, notably, when the petitioner has elected not to follow up on the progress of his complaint.

8. Learned counsel appearing for the State submits that the constitution of the SIT by the State respondents on 16<sup>th</sup> August, 2024 is an autonomous decision, unrelated and unconnected to the complaint filed by the de-facto complainant. The SIT consisting of four (04) senior IPS officers is tasked with probing the irregularities at the Hospital from January 2021

onwards, which is a separate and distinct enquiry/investigation.

**9.** The Learned Additional Solicitor General representing Respondent Nos. 3 and 4 submits that they do not object to the transfer of this matter to the Central Bureau of Investigation (CBI). They have expressed their acquiescence and have no reservations regarding the jurisdictional shift of the case to the CBI from the State agency for further investigation.

**10.** Heard learned counsel for the parties at length.

**11.** A writ court, when dealing with police inaction, generally cannot delve into the merits of the case per se. Its role is usually limited to assessing whether the police have failed to fulfill their legal duties, such as registering a First Information Report (FIR) or conducting a proper investigation.

**12.** In such situation, the court primarily examines procedural compliance and ensures that law enforcement authorities follow the correct process. However, the writ court does not serve as a fact-finding body or a trial court that determines the innocence or guilt of the parties involved. Instead, it addresses administrative failures and orders remedial actions without making judgments on the substantive merits of the criminal matter.

**13.** The same principle has been reiterated by the Supreme Court in **M.C. Mehta vs. Union of India and Others** reported in **(2007) 1 SCC 110**, that:

*"30. At the outset, we may state that this Court is concerned with ensuring proper and honest performance of its duty by CBI and that this Court is not concerned with the merits of the accusations in investigation, which are to be determined at the trial on the filing of the charge sheet in the competent court, according to the ordinary procedure prescribed by law..."*

**14.** Accordingly, this Court shall refrain from delving into the substantive merits of the case. Nonetheless, a significant issue persists regarding the appropriate investigative authority, specifically whether the inquiry should remain under the purview of the Special Investigation Team (SIT) or be transferred to the jurisdiction of the Central Bureau of Investigation (CBI). The determination of this procedural question warrants careful consideration to ensure the proper administration of justice and adherence to due process in the investigation.

**15.** It is to be noted that in light of the resurgence of multiple allegations subsequent to the hapless incident at R.G. Kar Medical College on the 9th of August, 2024, an Independent Enquiry by a Special Investigation Team (SIT) was constituted, as per notification issued by the Special Secretary to the Government of West Bengal, vide no. 1066-ISS/PL/0/SECRET/2M-02/2021. In light of the apparent nexus between the aforementioned allegations and the locus of the incident, and considering that the investigation in the case of **XXXXXX (Parents of Victim)**



**Vs. State of West Bengal & Ors. in WPA (P) 339 of 2024** has already been entrusted to the Central Bureau of Investigation (CBI), in the interest of ensuring a comprehensive and unbiased inquiry, the investigation into the present matter ought to be similarly transferred to the CBI.

**16.** Therefore, this Court directs that the investigation be transferred to the CBI, given that the case involved serious allegations and multiple agencies handling different aspects of the case could lead to inefficiencies or inconsistency for comprehensive justice, unnecessary delays in the judicial process and potential misinterpretation of information thereby undermining effective and credible enforcement. Therefore, the investigation should not be fragmented between different agencies. Handing over the investigation to the CBI ensures consistency.

**17.** The Special Investigation Team (SIT) is directed to hand over the Case Diary, other records, CCTV footages, statements, if any and all material and matters concerning the case to the C.B.I. by 10:00 A.M. tomorrow *i.e.* 24<sup>th</sup> August, 2024. Apart from that any other information, which is relevant to the case as may be called for by the C.B.I. shall be provided by the Special Investigation Team (SIT).

**In Re: CAN 1 of 2024**

**18.** The learned counsel appearing for the applicant in CAN 1 of 2024 submits that in the present case, the

applicant is a necessary as well as proper party as the allegations leveled by the petitioner are against him. However, the Learned Counsel appearing for the petitioner vehemently contests the applicant's motion for joinder of a party.

**19.** However, the Supreme Court in **Mumbai International Airport Private Limited v. Regency Convention Centre and Hotels Private Limited and Others** reported in **(2010) 7 SCC 417** held that:

*15. A “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “necessary party” is not impleaded, the suit itself is liable to be dismissed. A “proper party” is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.*

Thus, it can be observed that a "necessary party" is an individual who must be joined as a party to the case and without whose presence; this court cannot pass a valid order. It has been determined that if a "necessary party" is not included, the entire lawsuit is susceptible to dismissal.

**20.** However, in the present case, the applicant can neither be considered as a necessary nor a proper party, as a logical/effective conclusion can be reached at in the present writ petition without the inclusion of the applicant as a party. Furthermore, it is crucial to highlight that a Writ Court, when addressing police inaction, is not empowered to examine the substantive merits of the case.

**21.** Thus, as the applicant has no objection to the formation and investigation by the Special Investigation Team (SIT), the applicant cannot be added as a necessary party in this writ petition and the application being CAN 1 of 2024 is thereby dismissed.

**22.** Regarding personal protection of the petitioner, as on date, no grave situation has taken place that prompts for protection to the petitioner from the State. However, if need arises, leave is granted to the petitioner to approach the competent authority for personal protection to the petitioner.

**23.** The concerned officer of the Central Bureau of Investigation is requested to file progress report of the investigation before this Court within three weeks from date.

**24.** Let this matter again appear in the list on 17<sup>th</sup> September, 2024 under the heading "To Be Mentioned".

**25.** Mr. Banerjee, learned Senior Standing Counsel for the State after passing of the order prays for the stay of

operation of this order. Such prayer is considered and rejected.

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

**(Rajarshi Bharadwaj, J.)**