

ITEM NO.50

COURT NO.1

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).8706/2023

(Arising out of impugned final judgment and order dated 21-04-2023
in CAN No. 2/2023 passed by the High Court at Calcutta)

THE STATE OF WEST BENGAL

Petitioner(s)

VERSUS

SOUMEN NANDY & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.87023/2023-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT)

Date : 28-04-2023 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Sunil Fernandes, Adv.
Mr. Sanjay Basu, Adv.
Mr. Nipun Saxena, Adv.
Mr. Soumen Mohanty, Adv.
Mr. Srisatya Mohanty, Adv.
Ms. Anju Thomas, Adv.
Ms. Rashmi Singh, Adv.
Mr. Sanjeev Kaushik, Adv.
Mr. Piyush Ray, Adv.
Ms. Mantika Haryani, Adv.
Ms. Priyansha Sharma, Adv.
Mr. Divyansh Tiwari, Adv.
Mr. Abhik Chimni, Adv.
Mr. Shreyas Awasthi, Adv.
Mr. Himanshu Chakravarty, Adv.
Ms. Ripul Swati Kumari, Adv.
Mr. Devvrat Singh, Adv.
Ms. Muskan Surana, Adv.
Mr. Bhanu Mishra, Adv.
Ms. Astha Sharma, AOR

For Respondent(s) Mr. S.V. Raju, ASG
Mr. Mukesh Kumar Maroria, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

1 The State of West Bengal has moved this Court under Article 136 of the
Constitution, aggrieved by the impugned order dated 21 April 2023 of a Single
Judge of the High Court at Calcutta, transferring the investigation to the Central
Bureau of Investigation¹.

2 Mr Kapil Sibal, senior counsel appearing on behalf of the petitioner, submits that
the State of West Bengal was not served with the proceedings nor had notice of
the proposed direction for the CBI to investigate into the matter.

3 The specific averment which has been made in the synopsis to the Special Leave
Petition is in the following terms:

“9. That the Impugned Order records that none appears for
the State despite notice, on contrary it is most
respectfully submitted in the said application the
Applicant has not even arrayed Department of Urban
Development and Municipal Affairs as a party, instead
the Applicant had randomly served Advocates associated
with the Ld. Government Pleaders Office, which was
informed subsequently, instead of serving the concerned
Advocates or the concerned Department for appropriate
action. Such mischief by the counsels, ought to have
been frowned upon, instead of being strengthened vide
the Impugned Order herein.”

4 The High Court has recorded, in the course of its order, that none appeared on
behalf of the State, though served. On the contrary, we have a specific
averment which has been made in the above terms, as extracted above, by the
State of West Bengal.

5 In the interests of justice, we are of the view that it would be appropriate if the
State of West Bengal is heard afresh by the High Court on the issue as to

1 “CBI”

whether the investigation should be initiated by the CBI. We accordingly permit the petitioner to move a petition by way of review before the High Court. The High Court shall, after hearing the parties, take a considered view in the matter.

6 Mr Kapil Sibal states that the High Court would be moved by way of a review within three working days.

7 We request the High Court to dispose of the review petition within a week from the date of its filing.

8 We direct that the CBI and Enforcement Directorate shall maintain the *status quo* for a period of a week.

9 The Special Leave Petition is accordingly disposed of.

10 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR