

WPA 4011 OF 2024,  
WPA (P) 104 OF 2024,  
WPA (P) 78 OF 2024, WPA (P) 93 OF 2024  
REPORTABLE

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
(PUBLIC INTEREST LITIGATION)  
APPELLATE SIDE**

RESERVED ON: 04.04.2024  
DELIVERED ON: 10.04.2024

**CORAM:**

**THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM**

**AND**

**THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**WPA 4011 OF 2024**

**WITH**

**IA NO. CAN 1 OF 2024**

**+**

**IA NO. CAN 2 OF 2024**

**+**

**IA NO. CAN 3 OF 2024**

**THE COURT IN ITS OWN MOTION**

**VERSUS**

**THE STATE OF WEST BENGAL AND OTHERS**

**WITH**

**WPA (P) 104 OF 2024**

**ALAKH ALOK SRIVASTAVA**

**VERSUS**

**STATE OF WEST BENGAL AND OTHERS**

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**WITH**  
**WPA (P) 78 OF 2024**  
**SANJUKTA SAMANTA**  
**VERSUS**  
**UNION OF INDIA AND OTHERS**

**WITH**  
**WPA (P) 93 OF 2024**  
**IA NO. CAN 1 OF 2024**  
**PRIYANKA TIBREWAL**  
**VERSUS**  
**THE STATE OF WEST BENGAL AND OTHERS**

**Appearance:-**

**Mr. Pramit Kumar Roy, Ld. Sr. Adv.**  
**Mr. Smarajit Roy Chowdhury, Adv.**  
**Mr. Kalyan Kumar Chakraborty, Adv.**  
**Mr. Dip Jyoti Chakraborty, Adv.**  
**Mr. Ajit Mishra, Adv.**  
**Mr. Rajendra Banerjee, Adv.**  
**Mr. Atmaja Bandyopadhyay, Adv.**  
**Mr. Goutam Malik, Adv.**  
**Ms. Madhumita Basu, Adv.**  
**Mr. Manabendranath Bandhopadhyay, Adv.**  
**Mr. Amit Sharma, Adv.**  
**Mr. Tilak Mitra, Adv.**  
**Mr. Niladri Saha, Adv.**  
**Mr. Debashis Basu, Adv.**

**....For the Intervenors**  
**(WPA 4011 of 2024)**

**Mr. Alakh Alok Srivastava, Adv.**

**.....Petitioner (In Person)**

**Ms. Aparajita Mitra, Adv.**

**....For the petitioner**  
**In WPA (P) 104 of 2024**

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**Ms. Sanjukta Samanta, Adv.**

**....Petitioner (In Person)  
In WPA (P) 78 of 2024**

**Ms. Priyanka Tibrewal, Adv.**

**....Petitioner (In Person)  
In WPA (P) 93 of 2024**

**Mr. Kalyan Chakraborty, Adv.**

**Mr. Subas Ray, Adv.**

**Mr. Gopal Krishna Sarkar, Adv.**

**.....For the Intervenor  
In WPA 4011 of 2024**

**Mr. Kishore Dutta, Ld. Advocate General.**

**Mr. Amitesh Banerjee, Adv.**

**Mr. Sirsanya Bandopadhyay, Adv.**

**Mr. Biswabrata Basu Mallick, Adv.**

**Mr. Tarak Karan, Adv.**

**Mr. Debangshu Dinda, Adv.**

**Mr. Ritesh Kumar Ganguly, Adv.**

**...For the State.**

**Mr. S.V. Raju, Ld. A.S.G.**

**Mr. Dhiraj Trivedi, Ld. DSGI.**

**Mr. Arijit Chakraborty, Adv.**

**Ms. Debjani Roy, Adv.**

**Mr. Samrat Goswami, Adv.**

**Mr. Ankit Khanna, Adv.**

**Ms. Swapna Jha, Adv.**

**Ms. Supriti Sarkhel, Adv.**

**Ms. Sohini Dey, Adv.**

**Mr. Sunil Gupta, Adv.**

**....For the Enforcement Directorate**

**Mr. Ashok Kumar Chakraborti, Ld. A.S.G.I.**

**Mr. Arun Kumar Maity, Adv.**

**Ms. R. Bothra, Adv.**

**Mr. Tirtha Pati Acharya, Adv.**

**Mr. Amajit De, Adv.**

**...For the Union of India**

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**Mr. Ashok Kumar Chakraborti, Ld. A.S.G.I.**  
**Mr. Arun Kumar Maity, Adv.**  
**Mr. Amajit De, Adv.**

....For the CBI  
(In WPA 4011 of 2024)

**Mr. Jayanta Narayan Chatterjee, Adv.**

....For the Amicus Curiae  
(In WPA 4011 of 2024)

**Ms. Susmita Saha Dutta, Adv.**

....For the Intervenor  
(In CAN 2 of 2024 and  
CAN 3 of 2024  
in WPA 4011 of 2024)

**Mr. B. Mukherjee, Adv.**  
**Mr. Avik Ghatak, Adv.**  
**Mr. Gaurav Dutta, Adv.**

.....For the Accused

**Mr. Rajdeep Majumder, Ld. DSG**  
**Mr. Suryaneel Das, Adv.**

....For the Union of India  
(WPA (P) 93 of 2024)

**JUDGMENT**

***(Judgment of the Court was delivered by T.S.Sivagnanam, CJ. and  
Hiranmay Bhattacharyya, J.)***

1. WPA 4011 of 2024 was taken up as a suo motu writ petition by Hon'ble Single Bench of this court and by order dated 12.02.2024 the court recorded its gross disappointments after going through several newspapers and electronic media wherein it had been reported that number of ladies in Sandeshkhali, North 24 Parganas have been sexually assaulted at gun point. The court also observed that it has been alleged in the newspapers that the

tribal lands were taken away forcibly in violation of all legal formalities and laws. The learned Public Prosecutor was present in court and submitted that the learned Advocate General of the State is an appropriate person who will address the court and satisfy the queries that may be raised. With these observations, the court was constrained to take suo motu cognizance over the alleged incidents and also appointed learned amicus curiae to assist the court. The matter was placed before the Chief Justice and by administrative order dated 28.02.2024, the order passed by the learned Single Bench dated 12.02.2024 was treated as a report in terms of the Rule 59 of the Rules Relating to Applications under Article 226 of the Constitution and the matter was directed to be placed before the Division Bench dealing with Public Interest Litigation on 28.02.2024 and a supplementary list to be published in this regard. This is how the matter was listed before this court. Subsequently three other writ petitions as mentioned above were tagged along with the suo motu writ petitions.

2. In WPA (P) 93 of 2024 filed by a Learned Member of the Bar appearing in person seeks for issuance of a writ of mandamus to direct the Deputy Commissioner of Police and Officer-in-Charge of the concerned police stations for immediate ceasing of atrocities and urgent filing of FIRs against the perpetrators to arrest such perpetrators; to direct the returning of the land to the people from whom they were taken away and payment of the appropriate compensation; to constitute police teams to be posted in the area and to be monitored by this court; to constitute a Special Task Force and allow them to

visit Sandeshkhali to assess the situation at ground level and also to allow the writ petitioner to visit Sandeshkhali.

3. In WPA (P) 78 of 2024 which has also been filed by a practising advocate of this court wherein a prayer has been made for deployment of CRPF forces for securing the life and liberty of the victim women in Sandeshkhali; to render adequate protection to their lives and the dignity of the victims of sexual exploitation and sexual violence; to direct the National Commission for Women to enquire into the acts of sexual exploitation of women in Sandeshkhali by certain named persons; to constitute an independent Special Investigating Team consisting of any Central Investigating Agency to investigate into the complaints by the victims of Sandeshkhali and to direct the respondent including the state police not to intimidate and threaten the victims of Sandeshkhali and for immediate deployment of central forces.
4. WPA (P) 104 of 2024 has been filed by an advocate practising before the Hon'ble Supreme Court with a prayer to issue a writ of mandamus to transfer the investigation of the alleged sexual assault of women of the village Sandeshkhali from the West Bengal Police to the Central Bureau of Investigation (CBI) or to a Special Investigation Team (SIT) situated outside the State of West Bengal preferably at Delhi; to form a Committee of three retired Judges of the High Court in line with the Committee formed in Manipur atrocities case (***Dinganglung Gangmei Versus Mutum Churamani Meetei and Others***<sup>1</sup>) in order to enquire into the nature of violence against women

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<sup>1</sup> 2023 INSC 698

that occurred in Sandeshkhali; to direct the respondents to compensate the victims of sexual assault; to deploy central paramilitary forces for protection of the concerned witness/victims; to direct conduct of the trial of the case upon completion of the investigation in a Fast Track Court situated at Delhi and to direct the State of West Bengal to initiate stringent disciplinary action as well as penal action against the erring police men.

5. In the suo motu matter, CAN 1 of 2024 has been filed by a person seeking leave to intervene in the proceedings and allow him to be added as a party to the proceedings with a further prayer to allow the National Commission of Scheduled Castes to be impleaded as a proforma respondent and to appoint a Committee comprising among others one advocate of this Court including but not limited to one or more lady advocate who will freely visit the place along with appropriate protection and submit a report to this court. A supplementary affidavit has also been filed by the said person.
6. CAN 2 of 2024 has been filed seeking leave to permit the applicant to be added as a party to the suo motu proceedings and to grant leave to file additional affidavit disclosing certain facts and figures. The said applicant has filed a report in the form of an affidavit which was taken on record.
7. CAN 3 of 2024 has been filed with a prayer to constitute a Committee headed by a retired Judge of this court to monitor the proper redressal of grievances of the sufferers of the Sandeshkhali that is to say, the victims of sexual assault and forceful land grabbing; directing setting up of a website under the supervision and control of this court so as to enable the

sufferers/victims to lodge complaints fearlessly; to direct installation of adequate street lights in the streets/roads/pathways at Sandeshkhali; direct instillation of CCTV cameras at conspicuous places at Sandeshkhali and to direct the Government of West Bengal to recover from the wrong doers who grabbed forcibly and make arrangements for restoring the original nature and character of the said lands and there upon hand over the possession of the same to the original owners and make arrangements for payment of compensation as provided under the law.

8. CAN 1 of 2024 has been taken in WPA (P) 93 of 2024 praying for a direction to constitute an Enquiry Committee comprising of Members of the National Commission of Women, National Women Rights Commission, National Commission for Child Rights and/or the other members of the society to be headed by a retired High Court / Supreme Court Judge / to conduct a proper and thorough enquiry and report on the acts of violence perpetrated in Sandeshkhali; to direct the State of West Bengal to hand over the possession of the land forcibly obtained by certain persons and effect necessary change in land revenue records in respect of the same. Alternatively, the State of West Bengal be directed to grant compensation to the affected persons at market price of the land which were grabbed; to direct the state police to immediately register FIRs based of the complaints submitted by the women regarding acts of sexual violence without any delay and trial be conducted expeditiously preferably outside the State of West Bengal. Along with CAN 1 of 2024, a bunch of affidavits have been filed stated to be sworn in by the victims. By way



of illustration if one of the affidavits is perused which is Annexure P2 at Page 21 of CAN 1 of 2024, the deponent is a lady who alleges that certain persons whose names have been given in the affidavit abducted her from her residence and took her to place which is also specified in the affidavit and gang raped and sexually assaulted her one by one till she collapsed.

9. It is further stated in the affidavit that after she regained her consciousness she was once again put to the same trauma and sexually abused. Thereafter she was sent to her residence by those persons in their vehicle threatening her of dire consequences including murder of her children and husband. The deponent states that the said incident was repeated four times when she was abducted from her residence and kept in a place and was gang raped and sexually assaulted. Certain other events have also been set out in the affidavits. Along with the affidavits the copy of the Aadhaar Card, the identity card issued by the Election Commission of India the copy of the complaint given to the police, copy of FIR No. 20 of 2024 have been annexed. It is submitted by the petitioner appearing in person that the copies of the affidavit have not been served upon the respondents as it would lead to breach of confidentiality and would also amount to disclosing the names of the victims and therefore the affidavits have been placed only for the perusal of this court.

10. The suo motu writ petition along with the other connected matters was first heard on 28.02.2024 and on which date notice was issued to the learned Advocate General with a request to appear on behalf of the State of West Bengal and the registry was directed to inform the Learned Additional Solicitor

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General of India and the Learned Deputy Solicitor General of India so that the CBI and the Enforcement Directorate (ED) are represented. The registry was also directed to intimate the learned amicus curiae who was appointed by the learned Single Bench. The matter was heard on 26.02.2024 in which apart from the four writ petitions one other writ petition in WPA (P) 81 of 2024 was heard and the same was disposed of. The operative portion of the order passed in these four writ petitions is hereunder:-

***In Re : WPA (P) 81 of 2024***

*1. We have heard learned counsel for the petitioner. The petitioner, who is a practicing advocate of this Court, has filed this public interest litigation stating that on 10th February, 2024 he had learnt about the ordeal of persons, specifically women belonging to Scheduled Caste and Scheduled Tribe in Sandeshkhali, 24 Parganas (North). Therefore, this writ petition has been filed annexing the copies of newspapers cutting. Thus, we are satisfied that the petitioner without even conducting any enquiries or research on the subject merely based on newspapers cuttings has approached this Court. Furthermore, the Court has also taken a suo motu writ petition being WPA 4011 of 2024. Therefore, we are of the view that a separate writ petition at the instance of the petitioner, namely, Mr. Anindya Sundar Das, is deemed to be unnecessary. Accordingly WPA(P) 81 of 2024 stands **disposed of**.*

***In Re : WPA 4011 of 2024, WPA(P) 78 of 2024 & WPA(P) 93 of 2024***

*1. Supplementary affidavit filed by the applicant in CAN 1 of 2024 to WPA 4011 of 2024 is taken on record. Let copies be served*

*on the learned advocates appearing for the parties.*

*2. We have heard the learned advocates for the respective parties at length. The parties, namely, Home Secretary, Government of West Bengal, Director General of Police, West Bengal, Superintendent of Police, Basirhat, Sub-Divisional Police Officer, Basirhat, Officer-in-Charge, Sandeshkhali-II, the Additional Director, Enforcement Directorate, Zone 1, CGO Complex, 3rd MSO Building, 6th Floor, C & D Wing, DF Block, Salt Lake, Sector 1, Kolkata 700064 are added as party respondents in WPA 4011 of 2024 and all of them are represented by the learned advocates. SK. Sahajan, Karmadhaksya of Zilla Parishad, North 24 Parganas, who is alleged to be absconding is impleaded as a party respondent in this writ petition. Since the said party as on date is absconding and not traceable despite several criminal cases registered against him, the Registrar General is directed to issue a public notice through one leading Bengali newspaper and one leading English newspaper having wide circulation throughout the State informing the said person that he has been added as a respondent in WPA 4011 of 2024 and he is at liberty to enter appearance in the writ petition.*

*3. Learned advocates for the petitioners submitted that a wrong impression has been created as if an interim order of stay of arrest of the aforesaid person has been granted. There is nothing on record that in any of the cases, which are pending concerning the incidents at Sandeshkhali, there is an order of stay of arrest. Therefore, the said person shall be arrested by the concerned police authority.*

4. *Learned Advocate General submitted that as many as 43 FIRs have been registered and the earliest of which was registered four years ago and the last of such FIR was registered on 10th February, 2024. Out of 43 FIRs in 42 cases charge sheets have been laid under various sections of Indian Penal Code including Section 376 thereof. Further, in seven cases of land grabbing, charge sheets have been filed and on 8th February, 2024, 24 cases of land grabbing have been registered. It is rather surprising to note that the incidents in that particular area had been reported to State Police four years ago and it is more surprising that it has taken four years for the said 42 cases to mature into charge sheets. It is not clear as to in what manner the investigation has been carried out and under what provisions such charge sheets have been laid. This aspect will be examined by this Court at a later stage.*

5. *There is an allegation that the ministers of the State and politicians of ruling dispensation have entered the area despite promulgation of the order under Section 144 of the Criminal Procedure Code. In this regard, learned Advocate General submitted that the politicians and other functionaries of the State have not visited Block No.2 of Sandeshkhali and rather they have visited the Block No.1 of Sandeshkhali.*

6. *Furthermore, there is a reference to the order of stay granted in the operative portion of the order passed under Section 144 of the Criminal Procedure Code. The said order is of no consequence. The said order is confined only to two persons and the same has already been clarified in an intra-Court appeal filed by the State which has been disposed of. Therefore, no person can take advantage of the order passed*

*by the learned Single Bench or by the Division Bench concerning the matter which confines only to two of the writ petitioners therein.*

*7. Learned advocate appearing for one of the petitioners, whose writ petition has been filed today, being WPA(P) 93 of 2024, submitted that there are several ladies who want to lodge complain but they are afraid to come to the camp organized by the police authority fearing that they will further be exposed to more violence. As and when the said writ petition is listed along these cases the Court will consider as to whether the State Legal Services Authority should be requested to take up those cases. This aspect will be considered on the next date.*

*8. Learned amicus curiae submitted that he should be permitted to go to Block-2, Sandeshkhali, 24 Parganas (North). For the present such visit may not augur well and such prayer will be considered on the next hearing date. Learned amicus curiae is directed to file a report as it is submitted that he has several information regarding various incidents which took place in the concerned area on the next date.*

*9. List these matters for further consideration on 4th March, 2024.*

11. In the above order the court has recorded the submissions made by the learned Advocate General that as many as 43 FIRs have been registered and the earliest of which was registered four years ago and the last FIR was registered on 10.02.2024. Further out of the 43 FIRs, in 42 cases charge sheets have been laid under various sections of the Indian Penal Code

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including Section 376 IPC. The court also noted that in seven cases of land grabbing charge sheets have been filed on 08.02.2024, apart from 24 cases of land grabbing having been registered. The matters were subsequently heard on 28.02.2024 wherein the court noted the submissions of the Learned Additional Solicitor General of India that they have an apprehension that if the state police makes an arrest in terms of the observations made in the Paragraph 3 of the order dated 26.02.2024, there is a likelihood of the case being diluted by the state police as the CBI and ED have serious reservations against the state police and there is also an allegation that they are colluding with the absconding accused. The court recorded the submissions of the learned Advocate General who had vehemently disputed such contention raised on behalf of the ED. The court observed that the concerned person could not be apprehended for a substantial period of time and as on the said date what has been stayed by the court is only the constitution of the SIT and therefore it will be open to CBI and ED also to arrest the absconding accused. That apart there are other cases registered under the very same accused where he has been shown as absconding accused. Therefore, the court observed that a person who has been elected to a public office cannot defy law and therefore left it open to any one of the agencies to arrest. The matter was heard on 04.03.2024. Thereafter the matter was heard on 07.03.2024. The observations made by the respective advocates were placed on record including the submissions made on behalf of the ED and CBI. The court noted the submissions made on behalf of the applicant in IA No. CAN 1 of 2024 in WPA

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4011 of 2024 stating that the eye witnesses to the various incidents are still living in the locality and are required to be given adequate protection and in this regard referred to the Witness Protection Scheme, 2018. Subsequently, the matter was heard on 04.04.2024 and on the said date, the learned Additional Solicitor General of India appearing for ED requested that the copies of the FIRs/charge sheets which have been registered/laid to be furnished to ED. The learned Advocate General submitted that these FIRs have been registered by the jurisdictional police and ED will not have a right to obtain the copies. The court ordered that this issue will be considered after the copies of all the FIRs and charge sheets are placed before this court for its perusal and scrutiny and this was directed to be done by the respondent/State by the next hearing date. The court noted the oral submissions of the Learned Advocate General that the copies of those FIRs and charge sheets will be submitted to the court in a sealed cover. Then the court proceeded to elaborately hear the learned Advocates appearing in the matters including the intervenors, the learned Additional Solicitor General of India, the Deputy Solicitor General of India, as well as the learned Advocates for the accused.

12. Before we proceed to consider the respective submissions and as to what relief has to be granted in these cases at this juncture, first we propose to deal with the submissions made on behalf of the accused who is presently in the custody of the CBI. It is the submission of the learned Advocate that he has a right to be heard in the matter and certain observations which had fallen from this court while hearing these matters have grossly affected his interest.

Referring to the petition filed by ED under Section 167 CrPC before the learned Judge, Special (CBI Court No. 1), City Sessions Court at Calcutta in ML Case of 2 of 2024, it is submitted that in the said petition there is a specific reference to this suo motu writ petition and the order which was passed by this court in the said writ petition on 13.02.2024 and if that be so, the accused is entitled to be heard in the matter.

13. The learned Advocate had produced the arrest memo drawn by the ED dated 30.03.2024 as well as the details of the other FIRs which are pending against the accused. By placing reliance on the decision in **Re: An application for anticipatory bail under Section 438 CrPC**<sup>2</sup>, it is submitted that the accused could not have been recorded as an absconding accused since an application for anticipatory bail was filed by the accused and the matter was pending. Therefore, the observations made by this court in its earlier orders that the accused was absconding has seriously affected the rights of the accused.

14. Firstly, we need to point out certain background facts. The investigation was initially in the hands of the state police. The accused was not arrested for a considerable period of time. A writ petition was filed for transfer of the investigation to the CBI. The learned Writ Court had directed constitution of an SIT consisting of 50% of the officers of CBI and 50% of the officers of state police. This order was to put to challenge by ED and CBI before the Division Bench and the appeals were allowed and the order constituting the Special

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<sup>2</sup> 2014 SCC Online Cal 20786



Investigating Team was set aside and the case was transferred to CBI. The state authorities did not comply with the order and ED had filed a contempt application and only after an order was passed by the Division Bench in the contempt application, the case files were handed over to the CBI and the custody of the accused who had by then been arrested by the state police was handed over to CBI. In the said proceedings also, the accused sought for an audience on the ground that he is entitled to be heard in the matter. The court had rejected such a contention on the ground that in a prayer for transfer of investigation the accused has no right to be heard. The order passed by the Division Bench transferring the case to CBI and handing over the accused to CBI was affirmed by the Hon'ble Supreme Court as the Special Leave Petition filed against the order was dismissed. The accused in the present scenario is in no better or different position to plead a different case. The court in the suo motu proceedings is concerned with the larger issue pertaining to the allegations which have been made against the accused and several other persons of very serious offences such as gang rape, sexual exploitation, forcibly grabbing of land, properties etc. Since the investigation is now under progress by CBI, it is for the accused to work out his remedies in the manner known to law in the proceedings that may be initiated by CBI or during the course of such proceedings and in the present proceedings the accused has no right to be heard.

15. Having steered clear of this issue, now we proceed to take note of the elaborate submissions made by the learned advocates appearing for the parties

to consider as to what would be the appropriate order/directions that has to be issued. At this point of time the common prayer in the writ petitions as well as by the intervenors is to have an independent Committee to enquire into the matter so that appropriate directions can be issued to alleviate the victims from their sufferings. It is no doubt true that there is a slight variation in the prayers made but essentially the prayer is for an impartial and independent Committee to enquire into the matter. Before we proceed further, we take note of the submission made by the learned Advocate General who had contended that a public interest litigation cannot be a political interest or personal interest litigation and in all these cases there is a gross display of personal interest and the court should not be swayed by the crocodile tears which are shed before the court and an attempt is made to misguide this court. Further the petitioners/applicants have made one line allegation that the entire administration is hiding the accused without noting the facts that in several places the applicants themselves have mentioned about the effective steps taken by the state police and the state administration and therefore the administration should be given credence.

16. The learned Advocate General was fair in his submission that he does not for a moment say that no incidents have happened. But his concern is that the person who has come to the court should be a genuine public interest litigant and not a political interested litigant or the personally interested litigant. Further it is submitted that before filing the public interest litigation no research has been done and though 42 FIRs were registered there were

nobody who had come to this court earlier and only after an incident occurred they rushed to the court and slowly dissipate after another incident occurs. Further it is submitted that even going by the report of the learned amicus curiae, the area in question is known for its protests even from pre-independence days and the reaction of the public of different regions are different and distinct. Further it is submitted that the larger issue relating to the ration scam is been investigated by the state police and what is being investigated by the CBI is not the larger issue. Further it is submitted that the court should also take stalk of the performance of the central agencies by assessing their past actions. It is reiterated that when the larger issue relating to the ration scam is been investigated by the state police, it will be rather doubtful as to whether an offshoot of the same should go to a central agency.

17. It is submitted that as of now the situation has attained normalcy and all orders passed under Section 144 CrPC have been withdrawn.
18. The submissions that the genuineness of the public interest litigation/litigants has to be examined becomes irrelevant since the court has taken suo motu cognizance of the matter and WPA 4011 of 2024 has been registered as a suo motu writ petition. So regardless of the fact as to who may be the other public interest litigant who has approached this court by filing a separate writ petition or seek for intervention in the suo motu proceedings, cause and the reasons for entertaining the suo motu proceedings can neither be diluted nor defaced. Therefore, the said submissions made by the learned Advocate General does not merit acceptance as the court is convinced that a

suo motu proceeding is required to be drawn in the matter which has by now brought to light several facts which requires to be enquired into to ascertain the correct position. The state cannot at this juncture question the transfer of the cases to the central agency, CBI since it was pursuant to the order passed by the Division Bench which has been affirmed as the appeal filed by the state against the said order before the Hon'ble Supreme Court was dismissed.

19. With regard to the locus standi of a public interest litigant, we note the decision of the Hon'ble Supreme Court in the ***State of West Bengal and Others Versus Dipak Mishra***<sup>3</sup> wherein the Hon'ble Supreme Court observed that the court is required to examine whether a litigation is really in public interest or to advance some other interest in the garb of public interest, at the same time, a public interest litigation cannot be thrown out only because the petitioner belongs to a rival political party. It has been further held that persons with political affiliations are as much entitled to file a public interest litigation as any other persons. Whether the litigation is bonafide or not is a different issue which has to be examined by the court on a case to case basis having regard to the nature of the complaint before it. In the light of the decision of the Hon'ble Supreme Court, a writ petition filed as a public interest litigation by a person belonging to a particular political party cannot be thrown out. The turn of events and the facts which have emerged before this court ever since the court commenced hearing of the matter on 28.02.2024 clearly demonstrates a need to entertain these writ petitions as public interest

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<sup>3</sup> (2022) 13 SCC 250

litigation. We say so because of the incidents and certain facts which have been brought on record. It is no doubt true that the facts have to be enquired into and to ascertain the correct position and to direct the requisite to be done in accordance with law. Therefore, it is too late in the day for the state to contend that the public interest litigation cannot be entertained and that they are not genuine more so when the incidents which have occurred in Sandeskhali have not been shown to be wholly incorrect or palpably false.

20. The nitty gritty of the matter will show case only upon enquiry and investigation. As on date we are convinced that there is a prima facie material available for a full-fledged enquiry to be conducted or in other words a fact finding exercise to be conducted so as to evolve a solution to the problem and if it is established that women were gang raped, sexually exploited, the lands from the local people were forcibly grabbed etc. necessary action has to be directed to be taken in accordance with law. The court can take judicial notice of the fact that the State of West Bengal has put in place a machinery by which certain extent of lands are said to have been handed over to the persons from whom it has been grabbed. This aspect has been highlighted by the learned amicus curiae in his report. The fact that the Government came forward to hand over the land back to the rightful owner is more than sufficient to establish that land were forcibly taken. The mere fact that the Government has taken steps to revert the land back to the rightful owner does not efface or mitigate the offences of land grabbing. The persons who are responsible for such offences of land grabbing have to be brought to books and to be punished

in the manner known to law. The rightful land owner from whom the land has been grabbed is not only entitled to the possession being restored to him but the nature and character of the land as it existed prior to the same being grabbed has to be restored. When such large-scale land grabbing is reported undoubtedly the State being a welfare state has to pitch him and do the needful for the rightful land owners and not point a finger to the accused by stating that it is the accused who has to do remedial measures. The cases of land grabbing are not solitary cases but are alleged to be large scale land grabbing. Therefore, if lands have been grabbed and mutation has been done in the revenue records then it goes without saying that the state machinery is also involved in the process. Therefore, the state has a duty to compensate the victims of crimes apart from other relief measures.

21. In CAN 3 of 2024 filed by Susmita Saha Dutta the report drawn by the National Commission for Scheduled Tribes has been annexed. The learned Advocate General submitted that copy of the CAN 3 of 2024 has not been served. The applicant in CAN 3 of 2024 is directed to serve the copy of the application along with the annexures in the office of the Government Pleader to enable the state to respond. However, at this juncture we wish to refer to certain portions of the report drawn by the National Commission for Scheduled Tribes communicated to the Chief Secretary, Government of West Bengal, Director General of Police, Government of Kolkata, Collector and District Magistrate, North 24 Parganas and the Superintendent of Police, North 24 Parganas with copy marked to Susmita Saha Dutta. It will be well open to the

respondent state to submit their affidavits in response to the prayer sought in CAN 3 of 2024.

22. As per the report of the National Commission for Scheduled Tribes, a team led by the Vice Chairperson accompanied by the Director, Deputy Director and others visited Sandeshkhali on 22.02.2024 to inquire into the incidence of alleged sexual harassment, land grabbing and atrocities on the scheduled tribes and other vulnerable sections of the society in Sandeshkhali. The visit was in the backdrop of the complaint received from the Susmita Saha Dutta and others. The report states that they have interacted with several people who have mentioned about the physical violence, land grabbing and harassment meted out to them by the accused and others and this has been happening for a few years and those persons have been indulging in the acts of atrocities, the women are rounded up at nights from their homes and asked to accompany them to a particular place and if they resist, their husbands and sons were beaten up. Thereafter the women were molested and the vulnerable ones who cannot fight back were raped. Further it has been stated that complaints to the local police were not registered due to fear psychosis and also since they did not have any faith that any action will be taken.

23. It is stated that women revealed their ordeal to the team hesitatingly after repeated assurance that their names or identify will not be revealed. The team observed that they are all living under constant fear without any resort to help/intervention from local police/administration and a reign of terror is apparent. The modus operandi adopted while grabbing the lands were also

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stated to have been mentioned and those persons have occupied most of the lands for making a pond type structure for fishery operations called “bheri”. A joint petition in Bengali language addressed to the Commission signed by 12 women of Oraon tribe in Tiplighedi Nutanpada in Sandeshkhali is stated to have been given to the visiting team. The team has observed that there is a fear among the people including the scheduled tribes from the accused and their accomplices and all the persons who met the team have suffered from atrocities committed in the form of the physical assault, molestation, land grabbing, threatening and mental torture. Further the report states that the local police seems to be in hand and glove with the accused who belonged to a political party. Further the report states that the people of Sandeshkhali do not have any faith in the police system as well as local administration. The report drawn by the National Commission for Scheduled Tribes cannot be outrightly rejected more particularly, when the National Commission is a constitutional body under Article 338 A of the Constitution of India. Therefore, prima facie we have to give credence to the report subject to the objections that may be raised by the state in the affidavit which has been directed to be filed. As noted above the petitioner in WPA (P) 93 of 2024 has filed CAN 1 of 2024 enclosing affidavits stated to have been sworn to by the victims and it is stated that there are about 600 such affidavits.

24. Thus, considering the overall scenario and the complexities of the facts involved, we have no doubt in our mind to hold that an impartial enquiry is required to be done by an agency which has power to probe the criminal angle



stated to involved. Therefore this court is of the considered opinion that it is necessary in the interest of justice and fair play and for expeditious consideration of the various complaints and allegations an impartial enquiry is required to be conducted. The state has to provide the required support to the said agency to be appointed by us to enquire into the matter.

25. The petitioners have prayed for constitution of an Inquiry Committee to be headed by a retired Hon'ble Judge of this Court. Considering the nature of the allegations which involve crime against women as well as forcible grabbing of lands of the citizens including those belonging to scheduled tribes as well as the volume of the complaints which have been brought on record before this Court by one of the petitioners, this Court is of the considered view that instead of constituting an expert committee to be headed by a retired High Court Judge, the CBI may be directed to investigate and submit a report with regard to the allegations and complaints of the persons of Sandeshkhali as the CBI is already in seisin over the investigation in respect of an incident which very recently took place at Sandeshkahli. The parties will be at liberty to file their complaints before the CBI within a period of fortnight from the date of receipt of the server copy of this order.

26. In order to ensure confidentiality, CBI shall create a dedicated portal/email ID to which the complaints can be lodged and the District Magistrate, North 24 Parganas shall give adequate publicity of the same in the locality and also issue a Public Notice in the dailies having wide circulation in the areas. The text of the publication shall be in vernacular.

27. Let copies of the affidavits filed by the respective petitioners containing such allegation be forwarded to the CBI. In the event the complaints disclose cognizable offence, CBI shall proceed in accordance with law. CBI shall file a comprehensive report as to the steps taken in this regard on the next date. CBI shall also enquire into and investigate the allegations of forcible grabbing of land of the inhabitants of the locality and if such allegations have some foundational basis to initiate action and file a comprehensive report in that regard on the next date.
28. It goes without saying that CBI shall have the power to require any person, organisation, Government authority, police authorities, quasi-governmental authorities, NGOs, public spirited persons and others who may be genuinely interested in the matter to furnish information on such point or matters, as in its opinion may be useful for, or relevant to the subject matter.
29. With regard to the allegations about change of names of the owners in the revenue records illegally and also illegal conversion of agricultural lands into bheris for carrying on pisciculture, CBI is directed to file a comprehensive report in that regard after conducting a thorough inspection of the revenue records and after making physical inspection of the plots alleged to have been illegally converted into bheris on the next date.
30. This Court shall monitor the entire investigation and shall pass further orders after the reports as directed above are filed by CBI.
31. The District Magistrate, North 24 Parganas, The Superintendent of Police, the local bodies shall jointly take steps to install CCTVs in the relevant

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and sensitive places in the Sandeshkhali area. The State shall sanction necessary funds and the work shall be completed on priority basis within 15 days from date, waiving formalities such as tender process etc. Likewise the District administration and the local bodies shall install LED street lights in the areas expeditiously preferably within 15 days. Necessary funds shall be sanctioned by the State Government.

32. With regard to the protection to the victims and witnesses, CBI shall issue necessary directions to the State Police as to how and in what manner protection can be granted without insisting upon the strict procedure as stipulated under the Witness Protection Scheme.

33. List the matter on May 02, 2024.

**(HIRANMAY BHATTACHARYYA, J.)**

**(T.S. SIVAGNAM, C.J.)**

*(P.A – SACHIN)*