

(2015) 02 SC CK 0115

In the Supreme Court Of India

Case No : I.A. Nos. 10-15 in W.P. (C) Nos. 401/2013 and Compt. Pet. (C) No. 31/2015 in W.P.(C) No. 402/2013, Compt. Pet. (C) No. 32/2015 in W.P. (C) No. 402/2013 and W.P. (Crl.) No. 10/2015

Subrata Chatteraj

APPELLANT

Vs

Union of India (UOI)and Others

RESPONDENT

Date of Decision : 05-02-2015

Acts Referred:

Constitution of India, 1950 — Article 32

Citation : (2015) 2 SCALE 403

Hon'ble Judges : C. Nagappan, J.;T.S. Thakur, J.

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard. In I. As. No. 10-13 filed by the General Secretary of the Trinamool Congress the applicant has sought addition as a party to these proceedings. Besides a prayer for monitoring the on-going investigation by the Central Bureau of Investigation (CBI) and a direction restraining the CBI to desist from leaking the details of investigation has also been made.

2. In I. As. No. 14-15 for Directions filed by the Government of West Bengal, the following prayers have been made:

"(A) Direct Court Monitoring of the investigation being conducted by the CBI within the State of West Bengal;

(B) Restrain the Media from regularly reporting leaks from the CBI and unfounded allegations and/or information except those disclosed in the official briefings and releases by the investigating agency;

(C) Direct that there is no hindrance and/or bar in the Trial Courts proceedings with the cases as mentioned in Annexure A-2 of this Application and they should be disposed of expeditiously in light of directions passed by this Hon"ble Court in;

(D) Direct that the CBI shall henceforth conduct the trial expeditiously in the cases as mentioned in Annexure A-2 of this Application;

(E) Direct that the CBI shall take over immediately all cases registered in the entire State of West Bengal being both Saradha and Non-Saradha cases and dispose them of expeditiously within a reasonable time frame;

(F) Press any other order/directions as may be deemed appropriate by the Hon"ble Court."

3. Contempt Petition (C) Nos. 31 and 32 of 2015 have on the other hand been filed by the original writ Petitioners alleging that the Respondents in the said petitions have committed contempt of this Court by obstructing the on-going investigating into the cases by among other things by organising protest marches and processions.

4. Mr. Kapil Sibal, learned senior counsel appearing for the Government of West Bengal argued that although a prayer for restraining the Media from publishing reports based on selective leaks from the CBI and unfounded allegations and information has been made in the applications filed by the State Government, he has instruction not to press that prayer. He however contended that apart from 76 cases taken over by the CBI, pursuant to this Court's order dated 9th May, 2014, a large number of other cases arising in relation to Saradha Group of Companies remain to be taken over for further investigation. He submitted that charge-sheets have already been filed before the jurisdictional court concerned in as many as 193 cases in which too the CBI has conducted no further investigation even though it was permitted to do so by this Court. He contended that it was only after the matter was mentioned before this Court on 19th January, 2015 that a letter purported to have been signed on 16th January, 2015 was delivered to the Director General of Police, West Bengal, on 19th January, 2015, stating that the CBI does not intend to undertake any further investigation in 317 cases already filed before the competent courts, arising out of complaints filed by individual depositors alleging non-payment of the maturity value of their deposits by the Saradha Group. Mr. Sibal argued that by delaying its response on the subject the CBI had delayed the disposal of such cases pending before the courts concerned.

5. As regards cases against other companies and entities, our attention was drawn to a letter similarly addressed to the Director General of Police, West Bengal, also dated 16th January, 2015 in which the CBI has inter alia stated that out of the cases registered by the State Police, 70 cases taken over by it have led to registration of 9 cases by the CBI which are being investigated by it. Besides another 65 cases covering 242 FIRs in regard to the non-Saradha Group of Companies are also under investigation. As regards the rest of the cases, the CBI has expressed its inability to conduct any investigation on account of shortage of manpower, infrastructure and logistic support. Mr. Sibal submitted that since all the cases registered before 9th May, 2014 stand transferred for investigation to

the CBI, a piquant situation has arisen in which the State Police is unable to conduct any investigation because of the transfer of such cases to CBI which the CBI is now refusing to take over citing manpower and infrastructure deficiencies as an excuse.

6. There is, in our opinion, merit in the submission made by Mr. Sibal that the CBI cannot decline to conduct investigation in cases transferred to it by our dated 9th May, 2014, so long as that order holds the field. If the CBI has any difficulty in taking over the investigation in all such cases, on account of manpower or other difficulties, it could and ought to ask for a suitable modification in which event this Court may consider the prayer and pass an appropriate order. But so long as there is no such prayer, the CBI's stand that it cannot investigate the cases transferred to it for any man-power or other deficiencies, is not acceptable.

7. We may in fairness to Mr. Ranjit Kumar, learned Solicitor General, mention that even he conceded that in the light of the order passed by this Court on 9th May, 2014, transferring all such cases as were registered upto the date of the order of this Court to the CBI, the non-availability of infrastructure or otherwise is no excuse. He, however, sought permission of this Court to make a suitable application for modification of the said direction so that investigation in cases that have already been taken over, does not suffer on account of a bulk transfer of such a large number of cases as would hamper effective investigation into the entire scam. Mr. Kumar however made it clear that in cases where the State Police has filed charge-sheets in Saradha and nori-Saradha group of cases, the CBI does not propose to conduct any further investigation. That submission clears the decks for the State prosecuting agency pursuing the said matters before the courts concerned and for the courts to take up the matters for an expeditious disposal thereof.

8. That leaves us with the question, whether we need to add General Secretary of the Trinamool Congress (TMC) as a party Respondent to these proceedings and to consider the prayer for monitoring of the ongoing investigation. We may at the outset point out that W. Ps.(C) No. 401 and 402 of 2013 stand finally disposed of in terms of our order dated 9th May, 2014. There is, therefore, nothing pending before us in which the applicant may seek addition as a party. So also we see no reason to monitor the day-to-day progress in the investigation being conducted by the CBI which is one of the prayers made by the State Government also. The submission made by M/s. Sibal and Vivek Tankha, learned senior counsel appearing for the applicants, that the on-going investigation ought to be monitored to ensure that the selective leaks which the CBI is giving to the Media, do not deflect the on-going investigation, has no real factual basis. That the Media is being given any information selective or otherwise is unsupported by any material on record. Not only that the Solicitor General has, on the instructions of DIG, CBI, emphatically repudiated the accusation that the investigating agency is leaking out any information to the Media. It was

submitted that CBI at the state level does not address any press conference or have any interaction with the media. That part is handled by the headquarters of the CBI at Delhi. Allegations of selective or other leak by the CBI are based on the perception of the applicants only. That being so, we see no reason to monitor the investigation at this stage. Needless to say that anyone aggrieved of any action taken by the CBI is free to seek appropriate redress in accordance with law before the appropriate court in appropriate proceedings.

9. That leaves us with the two contempt petitions filed by the original writ Petitioners accusing the Respondents therein of committing contempt inasmuch as they are alleged to have prevented the CBI from conducting the investigation transferred to it. We see no reason to entertain any petition especially when the alleged obstruction is a matter that would give to the CBI the cause of action to make a grievance which it is free to make if the need so arises.

10. In the result, we dismiss these applications and contempt petitions reserving liberty for the CBI to seek modification of our Order dated 9th May, 2014, if so advised. W.P.(Crl.) No. 10 of 2015:

11. In view of what we have said above, we do not consider the present to be a fit case for issuing any further directions in exercise of our power Under Article 32 of the Constitution of India. The writ petition is accordingly dismissed.