

HIGH COURT OF CALCUTTA. REPORTABLE

**Double Bench: Chief Justice T.S. Sivagnanam and Justice Hiranmay
Bhattacharyya**

Date of Decision: 05.03.2024

CIVIL APPELLATE JURISDICTION APPELLATE SIDE

MAT No. 169 of 2024 and MAT No. 191 of 2024

ENFORCEMENT DIRECTORATE, KOLKATA ZONAL OFFICE I.

.....Appellant

VERSUS

STATE OF WEST BENGAL AND OTHERS.

Respondents

Legislation and Rules:

Indian Penal Code (IPC)

Prevention of Money Laundering Act (PMLA)

Criminal Procedure Code (CrPC)

Article 21, 32, 226 of the Constitution

Subject: Appeals challenging the constitution of a Special Investigating Team (SIT) comprising CBI and State Police officers for investigating a money laundering case involving a public distribution system scam in West Bengal.

Headnotes:

Transfer of Investigation – Law and Principles – In cases involving high officials of State authorities, accusations against top officials of the investigating agency, or where the investigation is prima facie tainted/biased, the Court may exercise its constitutional power to transfer the investigation to CBI. This aligns with the Supreme Court's directives in "State of West Bengal v. Committee for Protection of Democratic Rights" and other precedents. [Para 7, 11, 14-15]

Specific Case Analysis – Enforcement Directorate v. State of West Bengal – The Enforcement Directorate's appeals for transferring investigation from the State Police to CBI in FIR Nos. 8 and 9 of 2024 at Nazat Police Station and FIR 18 of 2024 at Bongaon Police Station, granted. The court found substantial grounds for mistrust in State Police's investigation, evidenced by the delay in registering FIRs, biased approach in FIR No. 7 of 2024, underplaying serious offenses, and reluctance to pursue politically influential accused. [Para 13-17]

Directions Issued – Transfer to CBI – Investigation in the stated FIRs transferred to the CBI for unbiased and fair investigation. The custody of the accused Sk. Shahjahan to be immediately transferred to the CBI, ensuring swift and impartial justice. [Para 18]

Referred Cases:

- State of West Bengal and Ors. Versus Committee for Protection of Democratic Rights(2010) 3 SCC 571
- Bimal Gurung Versus Union of India(2018) 15 SCC 480
- Dharam Pal Versus State of Haryana(2016) 4 SCC 160
- K.V. Rajendran Versus Superintendent of Police(2013) 12 SCC 480

Representing Advocates:

For ED: Mr. S.V. Raju (ASGI), Mr. Dhiraj Trivedi (DSGI), and others

For the State: Mr. Kishore Dutta (Ld. A.G.), Mr. Pantu Deb Roy (Ld. AGP)

For the Union of India: Mr. Ashok Kumar Chakraborti (Ld. ASGI), Mr. T.P. Acharyya

JUDGMENT

(Judgment of the Court was delivered by T.S. Sivagnanam, CJ.) These intra court appeals are directed against the order in WPA 802 of 2024 dated 17.01.2024. The appellant in MAT 169 of 2024 is the Enforcement Directorate, Kolkata Zonal Office-I, the writ petitioner in WPA 802 of 2024. The appellant in MAT 191 of 2024 is the State of West Bengal through its Chief Secretary, Government of West Bengal and 7 others who are the various police officials.

1. The writ petition was filed by the Enforcement Directorate (hereinafter referred as ED) for transfer of investigation of Case No. 9 of 2024, Case No. 8 of 2024 on the file of the Nazat Police Station and Case No. 18 of 2024 on the file of the Bongaon Police Station from the State Police to the Central Bureau of Investigation (hereinafter referred as CBI), the 9th and 2nd respondent in these appeals. The writ petition was disposed of by the impugned order constituting of Special Investigating Team consisting of officers of the CBI and the State Police. Aggrieved by such order, both CBI and the State of West Bengal have preferred these appeals.
2. We have elaborately heard the learned Additional Solicitor General Mr. S.V. Raju and the Deputy Solicitor General, Mr. Dhiraj Trivedi appearing for the ED, the learned Additional Solicitor General, Mr. Ashok Chakraborty for CBI and learned Advocate General, Mr. Kishore Dutta for the State of West Bengal.
3. The facts of the case as brought out before us could be summarized as follows. ED was investigating a money laundering case involving public distribution system scam in which a cabinet Minister of the State of West

Bengal was arrested. Money trail was found in respect of two political figures owing allegiance to the ruling dispensation of the State namely, Mr. Shahjahan Sk. and Mr. Sankar Adhya. On 5th January, 2024 during the morning hours ED conducted raid at the residence of Shahjahan for the purpose of search and seizure of the relevant documents. The suspect did not open the door of his house despite being contacted over phone and thereafter, his phone was busy. It is the consistent case of the ED that from the tower location analysis of the mobile phone, the suspect Shahjahan was in his residence and subsequently, his followers, the local persons came in buses and about one thousand to three thousand people gathered armed with sticks, bricks and stones attacked the raiding ED officials and the accompanying CRPF personnel. Three ED officials were seriously injured and were hospitalised. With regard to the incident, three FIRs were registered being FIR No. 7 of 2024, FIR No. 8 of 2024 and FIR No. 9 of 2024. FIR No. 7 of 2024 was based on a complaint given by one Didar Baksh Molla stated to be a security guard of Shahjahan. The complaint is addressed to the Inspector-in-charge, Nazat Police Station, dated 05.01.2024 signed in Bengali. The complaint is in English and the scribe is an Advocate of the Calcutta High Court having office at No. 7C, K.S. Roy Road, Kolkata. Based on the said complaint at 10.30 A.M. FIR No. 7 of 2024 was registered on 05.01.2024 under various sections of the Indian Penal Code (IPC). FIR No. 8 of 2024 was registered in the same police station by the same police officer which is a suo moto FIR in which it had been stated that about three thousand people had gathered and attacked the officials of ED. FIR No. 9 of 2024 was registered on 20:10 hours on 05.01.2024 based on a complaint lodged by ED to the Superintendent of Police, Basirhat Police District complaining against Shahjahan and several unknown persons for committing various offences under the IPC including Section 307 IPC. The complaint was lodged by the Deputy Director of ED, Kolkata Zone-I. Though the complaint was lodged under various provisions of IPC, Section 307 was not included and it is stated by the learned Advocate General that Section 307 IPC was added only on 17th January, 2024.

4. In the writ petition ED contended that in the complain they had specifically stated with regard to the incident which took place on 5th January, 2024 and the concerned police ought to have registered an FIR under various provisions of IPC and including Section 307 but contrary to the same FIR was registered under the other provisions omitting Section 307 of the IPC. It was contended that all the sections mentioned in FIR except Section 353 are

bailable offences and, therefore, would contend that the respondent/ State Police are biased in conducting the investigation of the crime which was committed against the officials of ED who were seriously injured and the official equipment were robbed while they were on duty conducting the search as per the provisions of the PMLA Act. It was further contended that the FIR No. 18 of 2024 of Bongaon Police Station was also registered without mentioning the relevant sections as brought out in the complaint lodged by ED. It was contended that the incident which took place on 5th January, 2024 was recorded by media personnel which show that neither the ED officials nor the CRPF personnel entered the house of Shahjahan and there was no visual evidence that any woman was touched by the ED officials or CRPF Jawans and in spite of the same, the concerned police registered FIR No. 7 of 2024 against the ED officials who were the victims of the crime. Further, it is contended that the respondent State Police authorities refused to provide copies of the FIRs registered against ED and ignored the mandate that the FIR should be uploaded in the West Bengal Police website or in any other public domain within 24 hours from the date of registration. It is contended that the certified copy of the FIR was obtained only after the writ petition was filed by ED for transfer of investigation. Therefore it is submitted that the ED has genuine apprehension about the manner in which the State machinery will conduct the investigation and there will be and has been systematic efforts by the State Police to destroy evidence and thwart the investigation. Thus, ED contended that their officers have been falsely implicated in FIR No. 7 of 2024 at the behest of Shahjahan for political reasons. Further, it was contended that due to influence of politically influential persons, involved in the scam of distribution of the ration items, the State police in order to create pressure and hamper the on-going investigation are taking all steps to thwart the entire process. It is contended that any investigation by the State Police would be as such neither objective nor fair and can be termed a complete miscarriage of justice. In this factual background, ED sought for a transfer of all the cases to CBI.

5. The learned Single Bench, as noted above constituted a Special Investigating Team (SIT) headed by an officer of CBI of the rank of Superintendent of Police to be nominated by CBI, Mr. Jaspreet Singh, IPS presently posted as the Superintendent of Police, Islampur Police District to conduct the investigation. Not only ED but the State of West Bengal and the Police authorities are also aggrieved by such direction. Before we go into the factual matrix some of which has been noted above, to consider as to the

correctness of the order and direction issued by the Hon'ble Single Bench, we have to take note of the law on the subject namely under what circumstances an investigation can be transferred to a Central Agency divesting the powers of the State Police Authorities.

6. In this regard, we may straight away refer to the decision of the Hon'ble Supreme Court in State of West Bengal and Ors. Versus Committee for Protection of Democratic Rights ¹. In the said case the respondent organization alleged that since the police administration in the State of West Bengal was under the influence of the ruling party, was trying to hide the incident to save its image, the investigations of the incident be handed over to CBI, an independent agency. This Court in its judgment dated 30.03.2001 felt that in the background of the case it had strong reservations about the impartiality and fairness in the investigation by the State Police because of the political fallout, therefore, no useful purpose would be served in continuing with the investigation by the State Investigating Agency. Further, the Court held that even if the investigation was conducted fairly and truthfully by the State Police, it is still be viewed with suspicion because of the allegation that all the assailants were members of the ruling party. Therefore, the Court deemed it appropriate to hand over investigation into the said incident to CBI. Challenging the correctness of the said decision, the State of West Bengal had filed the appeal before the Hon'ble Supreme Court. In the conclusions arrived at by the Hon'ble Supreme Court in Paragraph 68 of the judgment of which Sub-paragraph (vi) and (vii) would be relevant on the case on hand which is quoted hereinbelow:

(vi) If in terms of Entry 2 of List II of The Seventh Schedule on the one hand and Entry 2A and Entry 80 of List I on the other, an investigation by another agency is permissible subject to grant of consent by the State concerned, there is no reason as to why, in an exceptional situation, court would be precluded from exercising the same power which the Union could exercise in terms of the provisions of the Statute. In our opinion, exercise of such power by the constitutional courts would not violate the doctrine of separation of powers. In fact, if in such a situation the court fails to grant relief, it would be failing in its constitutional duty.

(vii) When the Special Police Act itself provides that subject to the consent by the State, the CBI can take up investigation in relation

¹ (2010) 3 SCC 571

to the crime which was otherwise within the jurisdiction of the State Police, the court can also exercise its constitutional power of judicial review and direct the CBI to take up the investigation within the jurisdiction of the State. The power of the High Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted by Section 6 of the Special Police Act. Irrespective of there being any statutory provision acting as a restriction on the powers of the Courts, the restriction imposed by Section 6 of the Special Police Act on the powers of the Union, cannot be read as restriction on the powers of the Constitutional Courts. Therefore, exercise of power of judicial review by the High Court, in our opinion, would not amount to infringement of either the doctrine of separation of power or the federal structure.

7. After recording the above conclusion, the Hon'ble Supreme Court held that in exercise of its jurisdiction under Article 226 of the Constitution, the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.
8. Further in Paragraph 70 the Hon'ble Supreme Court emphasized that despite wide powers under Article 32 and Article 226 of the Constitution, while passing any order, the Court must bear in mind certain self-imposed limitations on the exercise of the constitutional powers. It further held that the very plentitude of the power under the said article requires great caution in its exercise. In so far as the question of issuing the direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised, but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. It was further held that this extraordinary power must be exercised sparingly, cautiously and in exceptional circumstances where it becomes necessary to provide credibility and instill confidence in investigation or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights.
9. In *Bimal Gurung Versus Union of India*² the President of an organization filed a writ petition under Article 32 of the Constitution praying for transfer of

² (2018) 15 SCC 480

investigation of all FIRs lodged against him and other members of the organization to an independent investigating agency. The Hon'ble Supreme Court took note of the decision in the case of State of West Bengal Versus Committee for Protection of Democratic Rights ³ (Supra), the decision in Dharam Pal Versus State of Haryana ⁴ , K.V. Rajendran Versus Superintendent of Police ⁵ and summarized the legal position as follows:

26. The law is thus well settled that power of transferring investigation to other investigating agency must be exercised in rare and exceptional cases where the Court finds it necessary in order to do justice between the parties to instill confidence in the public mind, or where investigation by the State Police lacks credibility. Such power has to be exercised in rare and exceptional cases. In K.V. Rajendran vs. Superintendent of Police, CBCID South Zone, Of Police, (2013) 12 SCC 480, this Court has noted few circumstances where the Court could exercise its constitutional power to transfer of investigation from State Police to CBI such as: (i) where high officials of State authorities are involved, or (ii) where the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, or (iii) where investigation prima facie is found to be tainted/biased.

10. In the light of the law laid down in the afore mentioned decisions, we are guided by the Hon'ble Supreme Court that broadly under three circumstances the Court could exercise its constitutional power to transfer the investigation from State Police to CBI. The circumstances are when high officials of State authorities are involved, where the accusation is against top officials of the investigating agency or where investigation prima facie is found to be tainted/ biased.
11. Thus, we are required to consider as to whether the facts and circumstances in the case on hand would fall within the parameters as mentioned by the Hon'ble Supreme Court and whether ED was justified in seeking for transfer of the cases to CBI and whether the State of West Bengal was justified in seeking to set aside the constitution of SIT and allow them to retain the powers to investigate those cases and proceed further.

³ (2010) 3 SCC 571

⁴ (2016) 4 SCC 160

⁵ (2013) 12 SCC 480

12. The incident which took place on 5th January, 2024, in our opinion, was unprecedented. The learned Single Bench in the impugned order in Paragraph 14 has observed that it is indeed quite astounding, to say the least, that State police are having no information on the whereabouts of a prominent political leader of the locality like the accused Shahjahan and are unable to arrest him. The arrest of the said accused took place only on 29th February, 2024 after various orders were passed in suo moto case WPA 4011 of 2024 and other connected matters. The Court while hearing those matters had recorded the submission made on behalf of the State of West Bengal that they had formed an opinion that there was stay of arrest of the accused. It was clarified in the said proceedings that the stay which was granted in these appeals were restricted only to investigation by the State Police and not the stay of the arrest. The State had accepted the fact that as many as 42 cases have been registered against the absconding accused and several of them were as old as 4 years. After the orders were passed in the suo moto proceedings the absconding accused was apprehended on 29th February, 2024 and it appears that one case (Case No. 9 of 2024) has now been transferred to the CID of the State Police and notices have been issued to the officers of the ED under Section 91 and Section 160 CrPC. This step has been resorted to despite the fact that there was an order passed in these appeals restraining the State Police from proceeding with the investigation. Thus, we can safely conclude that the State Police are over-zealous for reasons best known to them. Though the learned Single Bench in Paragraph 14 of the impugned judgment had made certain observations, (referred supra) in Paragraph 15 faulted ED for not praying for transfer of investigation of cases involving the predicate offences from the State Police to CBI. The question would be as to whether ED has to seek for transfer of such cases and in the absence of such a prayer are they justified in seeking the transfer of the three cases to CBI. To be noted that the predicate offences is a separate matter and not concerning the incident which occurred on 5th January, 2024 as narrated in the complaint lodged by the Deputy Director of ED, Kolkata Zone. Therefore, in our considered view, merely because ED had not sought for transfer of the predicate offence to CBI would not disentitle them to seek for a transfer of the three cases to an independent agency. It is not in dispute that the case investigated by ED involves a sitting Minister of the West Bengal Government, the person whose premises were to be searched namely, Shahjahan is a very influential person in the ruling party and has been on the run for over 50 days and apprehended only on

29thFebruary, 2024. Above all, the circumstances under which FIR No. 7 of 2024 which was registered by the Inspector-in-charge, Nazat Police Station is clouded with suspicion for more than one reason. The complainant is said to be the security guard of Shahjahan. The complaint has been drawn on 5thJanuary, 2024 and the date of the complaint written in words prima facie shows that there was an interpolation. The scribe of the complaint was an Advocate of this Court who has an office in Kolkata. The learned Deputy Solicitor General pointed out that there are other interpolations in the complaint itself. More surprisingly, FIR No. 8 of 2024 was registered by the same Officer-in-charge in the same police station stating that more than three thousand people had gathered and attacked the Officials of the Enforcement Directorate. A criminal revision case in CRR No. 164 of 2024 was filed by ED to quash FIR No. 7 of 2024 on the file of the Nazat Police Station. The learned Single Bench after elaborately hearing the Learned Additional Solicitor General for ED and the learned Advocate General for the State of West Bengal has granted an order of stay of FIR No. 7 of 2024 till 31st March, 2024 with a direction to the State of West Bengal to file their affidavit-in-opposition by 18th January, 2024. We are informed that such an affidavit is yet to be filed. In Paragraph 13 and 14 of the interim order dated 11th January, 2024, the learned Single Bench has recorded a finding that an officer-in-charge who has registered an FIR had signed it at 10:30 A.M. in the morning on the complaint of the security guard of Shahjahan could not have signed another FIR on the same day based on a complaint of a Sub-Inspector of Police (Suo Moto). Therefore, the Court observed that there was a clear inconsistency between the two FIRs which disclose completely different version of the incident and the Court's mind is not free from doubt that FIR No. 7 of 2024 may have been pre-timed based on a procured complaint to show prior FIR on the same day against the officials of ED and therefore, the allegations made by ED cannot be brushed aside. It is no doubt true that the order passed in CRR 164 of 2024 dated 11.01.2024 is only an interim order. Nonetheless, the order is a reasoned order where the Court has recorded a prima facie finding adverse to the interest of the State Police. This order has not been questioned by the State Police and has been in force from 11th January, 2024. We pose a question to ourselves as to whether a victim can become an accused.

The answer to the said query in the facts and circumstances of the case on hand is that it can never be so. Therefore, what is required to be considered applying the law laid down by the Hon'ble Supreme Court is that the power

to transfer cases to be exercised in rare and exceptional circumstances, in cases where high officials of State authorities are involved or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation and above all it is so necessary to do justice and to instill confidence in the investigation or where the investigation is prima facie found to be tainted/ biased. As pointed out earlier, in these appeals an interim order was granted on 7th February, 2024 which reads as follows:

1. Two appeals have been preferred against the order dated 17th January, 2024. The appeal in M.A.T. 169 of 2024 has been filed by the Enforcement Directorate, who was the writ petitioner. M.A.T. 191 of 2024 has been filed by the State of West Bengal, who was the respondent in the writ petition.
2. The moot question involved in the appeal filed by the Enforcement Directorate is whether the learned Single Bench was right in constituting a Special Investigating Team involving the CBI as well as the State Police on the sole ground that the Enforcement Directorate has not prayed for transfer of investigation of cases involving the predicate offences from the State Police to the CBI. This finding has been recorded in paragraph 15 of the impugned order.
3. However, on a reading of the other paragraphs of the impugned order, we find that the learned Single Bench has come to the unequivocal opinion that the involvement of the CBI personnel in the investigation of the present case would be imperative considering the ineptitude of the local police to handle the matter, as discussed in the order and in view of the allegation of bias levelled by the Enforcement Directorate.
4. Further, the learned Single Bench has observed that a pan India organisation like the CBI would also be able to deal better with inter-State or inter-country measure if it becomes necessary to undertake the same and one cannot rule out the possibility of any accused crossing over to a neighbouring country.
5. Thus, in the background of these findings, the question to be decided in the appeal filed by the Enforcement Directorate is whether the State Police could be part of the Special Investigating Team.

6. The matter is to be decided after hearing both the parties, more so when the State of West Bengal also are aggrieved by the very same impugned order and they have filed an independent appeal.
7. Therefore, till the appeals are heard and disposed of, orders and directions issued by the learned Single Bench in the impugned order dated 17th January, 2024 shall remain stayed until further orders. Consequently, I.A. No. CAN 1 of 2024 in M.A.T. 169 of 2024 is disposed of.
8. It goes without saying that the West Bengal State Police shall also be restrained from proceeding with the investigation in the cases, which have been registered by them.
9. If any of the documents, which were filed before the learned writ Court, had not formed part of the records, the parties are at liberty to file a compilation.
10. List these matters under the caption 'For Direction' on 6th March, 2024.
11. It is made clear that pendency of these appeals will not be bar for the Enforcement Directorate to contest other applications or petitions, which may be filed by the accused praying for anticipatory bail/bail.
14. In terms of the above order, the order passed by the learned Single Bench constituting an SIT was stayed until further orders. It was made explicitly clear that the West Bengal State Police are restrained from proceeding with the investigation in the cases which have been registered by them. Despite such an order, the one case stood transferred to the CID, West Bengal who has issued notices dated 01.03.2024 under Section 91 and Section 160 CrPC. Thus, this act of the State Police would be sufficient to hold that the State Police are totally biased and every attempt is being made to delay the investigation in order to protect the accused who has been absconding for more than 50 days. The then absconding accused is stated to be a "strong man" in the locality and has very powerful connections in the ruling party apart from having been elected as a Karmadhaksya of Zilla Parishad, North 24 Parganas having been fielded as a candidate of the ruling dispensation. The State Police had played a "hide and seek" methodology in all probabilities to shield the accused who undoubtedly is a highly politically

- influential person who has demonstrably shown that he is and would be in a position to influence the investigation if allowed to rest with the State Police.
15. The case which has been registered by ED, investigating into the public distribution system scam involves highly politically powerful persons which include the accused Shahjahan. Thus, what is required, is a fair, honest and complete investigation and this alone will retain the public confidence in the impartial working of the State agencies. We have no hesitation in our mind to hold that this confidence has been shaken and there can be no better case than the case on hand which requires to be transferred to be investigated by CBI. It is a pitiable state of affairs when we hear the allegation made by ED that they were not even given the copy of the FIR registered based on their complaint in FIR No. 9 of 2024 and they were able to secure a certified copy only after they file the writ petition. In the suo moto FIR which was registered at the same police station in FIR No. 8 of 2024, it is stated that three thousand people gathered to attack the officers of ED and the CRPF personnel. In the complaint lodged by ED, which has been registered as FIR No. 9 or 2024, it has been mentioned that about eight hundred to one thousand people gathered and attacked the officials of ED and CRPF personnel, snatched and took away the official equipment of the officials. The learned Single Bench has recorded in paragraph 10 of the impugned order that there was no serious effort made to enter the residence of the accused. This finding appears to be not seriously disputed in the appeal filed by the State of West Bengal in MAT no. 194 of 2024 more particularly, the specific case of ED that the premises was locked from inside. In paragraph 13 of the impugned order the learned Single Bench has observed that the suo moto FIR, (the FIR No. 8 of 2024) did not contain relevant provisions of law and presented a rather watered-down version. In paragraph 9 the Court noted that there are several other flaws in the investigation conducted by the State Police. Further, despite the injury report of one of the victims (official of ED) and the statement that he was hit by an accused with the stone on his head, no charge under Section 307 of IPC was added and other applicable serious provisions of law like dacoity, grievous hurt by dangerous means were omitted from the FIR.
16. Above all, the persons who are injured on account of the mob attack are officials of Enforcement Directorate and CRPF personnel who were discharging their official duties and responsibilities. It is beyond one's comprehension that without a pre-planned effort more than thousand people or three thousand people, going by the figure mentioned in the suo moto FIR No. 8 of 2024 could have assembled in that area armed with deadly weapons

to attack the ED officials and CRPF. The State Police accepts the fact that the officials of ED and CRPF personnel had to flee away from the area and the State Police are stated to have provided adequate transport facility including road transport and transport across the river and also afforded emergency medical treatment in the local primary health center. Though suo moto FIR 8 of 2024 had been registered in the very same police station, we agree with the submissions made on behalf of the appellant ED that except for one offence all were bailable offences and the State police have underplayed the entire situation.

17. As noted above, Section 307 IPC was added only on 17.01.2024. As pointed out by the Hon'ble Supreme Court, being the protectors of the civil rights of the citizens, the High Court has not only power and jurisdiction but also an obligation to protect fundamental rights guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly. The accused who has been apprehended on 29th February, 2024 after being on the run for more than 50 days is not an ordinary citizen. He is an elected representative of the public, holding the highest office in a Zilla Parishad, he was fielded as the candidate at the elections held for the said post by the political party which is ruling dispensation. Thus, it has become imperative and absolutely necessary for doing complete justice and enforcing the fundamental rights of the public in general and the public of the locality that the cases be transferred to the Central Bureau of Investigation for investigation and to proceed further.
18. In the result, MAT no. 169 of 2024 and MAT no. 191 of 2024 are allowed and the order passed by the learned Single Bench constituting the Special Investigating Team is set aside and the writ petition filed by the Enforcement Directorate in WPA 802 of 2024 is allowed and cases in FIR No. 8 of 2024 and FIR No. 9 of 2024 on file of the Nazat Police Station and FIR 18 of 2024 on the file of the Bongaon Police Station shall forthwith be transferred to Central Bureau of Investigation. The custody of the accused Sk. Shahjahan shall also forthwith be handed over to CBI. This direction shall be implemented by 4:30 P.M. today (05.03.2024). No costs. Connected applications stand disposed of.

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