

IN THE SUPREME COURT OF INDIA
Civil APPELLATE JURISDICTION

Miscellaneous Application Nos. 309-10 of 2023
@ M.A. Diary No. 7422 of 2023

With

Interlocutory Application No. 37958 of 2023
(Application for clarification of Order)

In

Special Leave Petition (Civil) Nos.11164-65 of 2022

UNION OF INDIA

... PETITIONER(S)

VERSUS

BIKASH SAHA & ORS.

... RESPONDENT(S)

O R D E R

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1. A Writ Petition, bearing no. WP(C)(PIL) No. 07 of 2022, in the nature of Public Interest Litigation was filed by the applicant before the High Court of Tripura at Agartala, wherein the main relief claimed was to quash and/or to set aside and/or to remove or withdraw all the special securities provided to private respondent nos. 2 to 6.

2. High Court vide two orders dated 31.05.2022 and 21.06.2022 directed the Union of India to produce status reports regarding the threat perception with respect to the private respondent nos.2 to 6.

3. Challenging the aforesaid two orders, Union of India filed the captioned Special Leave Petition under Article 136 of the Constitution which came to be disposed of by a three-Judge Bench of this Court vide order dated 22.07.2022 by making following observations and directions :-

9. After perusing the material on record, and carefully considering the submissions of the parties, we are in agreement with the submission of the learned Solicitor General that the respondent no. 1- original petitioner does not have locus standi in the matter. The threat perception of a party is based on the inputs received from the concerned agencies. We cannot adjudicate the same in the present petition filed by the respondent no. 1- original petitioner.

10. Further, it is clear from the record that a similar PIL challenging the grant of Z+ security to the private respondents no. 2 to 6, inter alia, was dismissed by the High Court of Bombay vide order dated 11.12.2019 in Crim. Public Interest Litigation St. No. 42 of 2019, whereby the High Court held as follows:

"8...The judgment of Hon'ble Supreme Court in Biswanath (supra) is binding throughout the territories of India. We are of the view that 5 the Commissioner of Police, Mumbai and other respondents have no option but to ensure that the highest level "Z+" security is provided to these private respondents to protect their life and liberty, irrespective of whether any individual or any authority is convinced about the existence or otherwise of real threat to their life or liberty, particularly when in terms of the ratio laid down by the Hon'ble Supreme Court in Biswanath's case (supra), these private respondents are willing to bear the entire cost for said security to protect their lives in view of their own grave threat perceptions." The above judgment was challenged

before this Court in SLP (C) No. 5239 of 2020, which was dismissed vide order dated 27.10.2020.

11. It is not in dispute that private respondents no. 2 to 6 are the promoters of, and in the management of, some of India's biggest and most prominent companies. There are no reasons to disbelieve the existence of threat to the lives of the respondents no. 2 to 6, particularly considering the fact of the incident recounted by learned senior counsel for respondents no. 2 to 6. The petitioner-Union of India is already cognizant of this threat and is therefore already providing security. Further, the High Court of Bombay has earlier also recognized the need for Z+ security for the respondents no. 2 to 6, and the Special Leave Petition against the same stands dismissed. In these circumstances, we are not inclined to entertain this issue in a PIL filed by a third party who has not proved his locus.

12. In view of the above, we do not see any reason for continuation of the present matter, either before this Court or before the High Court of Tripura. The said writ petition is therefore directed to be closed. The petitioner-Union of India is directed to provide adequate security to the private respondents no. 2 to 6 at their own expense, as per the earlier directions of the High Court of Bombay.

13. With the above observations, the Special Leave Petitions are disposed of.

14. IA No. 94012/2022 is an application seeking intervention which is dismissed.

15. Pending applications, if any, stand disposed of.

4. The applicant (respondent no. 1 herein) has again approached this Court by filing this instant Miscellaneous Application seeking clarification of the aforesaid order.

5. Learned counsel for the applicant contends that Order dated 22.07.2022 as it stands, there is lot of scope of mis-interpretation of the said order, unless it is clarified that the scope of the said order was restricted to providing of security cover to respondent nos. 2 to 6 only exclusively within the State of Maharashtra, which is the place of business and residence of the said respondents.

6. Shri Mukul Rohtagi, Learned Senior Counsel appearing for the respondent nos. 2 to 6 contends that the highest level of Z+ Security cover was provided to respondent nos. 2 to 6, in view of continuous threat perception assessed by Mumbai Police and Ministry of Home Affairs and Union of India.

7. He further submits that the respondent nos. 2 to 6 are at continued risk of being targeted to financially de-stablize the country and such risk exists not only throughout India as also when the said respondents are traveling abroad. It is also pointed out that respondent nos. 2 to 6 have business across the country as also around the world and the philanthropic activities of their foundation penetrate even the remotest corner of the country and in view of the threat perception, the highest level of security cover is essential to protect them.

8. Learned Senior counsel also submitted that an earlier PIL challenging the grant of Z+ Security to the respondents before

the High Court of Bombay, was dismissed vide order dated 11.12.2019. This Court has noted the observations made by the High Court of Bombay in the order dated 22.07.2022.

9. Having heard learned counsel for the parties, we are of the considered opinion that if there is a security threat, the security cover provided and that too at own expense of the respondents, cannot be restricted to a particular area or place of stay. Looking into the business activities of the respondent nos. 2 to 6 within the country as also outside the country, the very purpose of providing security cover would stand frustrated, if the same is restricted to a particular place or area.

10. Furthermore, when it was conclusively adjudicated vide order dated 22.07.2022 that the applicant (respondent no. 1 herein) has no locus in the matter, the present MA at his behest is not liable to be entertained.

11. We find that the Security Cover provided to the respondent nos. 2 to 6 has been the subject matter of controversy at different places and in different High Courts. To put an end to entire controversy once and for all, we issue following directions :-

(i) Highest Z+ Security Cover provided to respondent nos. 2

to 6 shall be available all across India and the same is to be ensured by the State of Maharashtra and Ministry of Home Affairs.

(ii) Highest Level Z+ Security Cover, as per the policy of Government of India, be also provided, while respondent nos. 2 to 6 are traveling abroad and the same shall be ensured by the Ministry of Home Affairs.

(iii) The entire expenses and cost of providing Highest level Z+ Security Cover to respondent nos. 2 to 6 within the territory of India or abroad shall be borne by them.

12. Accordingly, the Miscellaneous Applications stand disposed of.

.....J.

(KRISHNA MURARI)

.....J.

(AHSANUDDIN AMANULLAH)

NEW DELHI;
27th February, 2023

ITEM NO.57

COURT NO.13

SECTION XIV

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

Miscellaneous Application Nos. 309-310/2023 in SLP(C)
Nos. 11164-11165/2022

(Arising out of impugned final judgment and order dated 22-07-2022 in SLP(C) No. No. 11164/2022 22-07-2022 in SLP(C) No. 11165/2022 passed by the Supreme Court Of India)

UNION OF INDIA

Petitioner(s)

VERSUS

BIKASH SAHA & ORS.

Respondent(s)

(IA No. 37958/2023 - CLARIFICATION/DIRECTION)

Date : 27-02-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Mr. Tushar Mehta, Solicitor General
Mr. Rajat Nair, Adv.
Mr. Rajan Kumar Chourasia, Adv.
Ms. Deepabali Dutta, Adv.
Mr. Arvind Kumar Sharma, AOR

For Respondent(s) Ms. Anzu. K. Varkey, AOR
Mr. Ashish Batra, AOR
Mr. Nikilesh Ramachandran, AOR

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

Miscellaneous application Nos. 309-10 of 2023 with
I.A. No. 37958 of 2023 in SLP(C) Nos. 11164-65 of 2022.

The miscellaneous applications stand disposed of in terms of the signed order.

The concluding paragraph of the order reads as under:-

VERDICTUM.IN

"11. We find that the Security Cover provided to the respondent nos. 2 to 6 has been the subject matter of controversy at different places and in different High Courts. To put an end to entire controversy once and for all, we issue following directions :-

(i) Highest Z+ Security Cover provided to respondent nos. 2 to 6 shall be available all across India and the same is to be ensured by the State of Maharashtra and Ministry of Home Affairs.

(ii) Highest Level Z+ Security Cover, as per the policy of Government of India, be also provided, while respondent nos. 2 to 6 are traveling abroad and the same shall be ensured by the Ministry of Home Affairs.

(iii) The entire expenses and cost of providing Highest level Z+ Security Cover to respondent nos. 2 to 6 within the territory of India or abroad shall be borne by them."

(SONIA GULATI)
SENIOR PERSONAL ASSISTANT

(Signed order is placed on the file)

(BEENA JOLLY)
COURT MASTER (NSH)