

PROTECTION OF OFFICERS OF L&LR&RR&R DEPARTMENT UNDER THE LAW

It is being seriously noticed that aggrieved parties of a mutation/conversion/Misc cases are lodging FIR against the Revenue Officer/BL&LROs, and the police authorities are taking active steps against the Revenue Officers/BL&LROs though they are discharging the duty as quasi-judicial authorities.

- The Police authorities are asking for the name of the disposing officer which is only required for the purpose of lodging F.I.R against the officer concerned. Here intervention from the district end is required.
- The police authorities should be reminded that until and unless he has explicit evidence he should not include the name of the officer concerned.
- The police authorities may be given training on land matters like ADSR, BDOs etc at ARTI/LMTC or in their own venue specially on:
 - i) Preparation and revision of ROR,
 - ii) Mutation,
 - iii) Conversion,
 - iv) Barga,
 - v) Distribution of vested land,
 - vi) Computerised record.
 - vii) Provisions of appeal
Under the WBLR Act
 - viii) Important Departmental circulars

The following provisions of law may be helpful.

I. SECTION 58 OF THE WEST BENGAL LAND REFORMS ACT, 1955

S. 58: Protection of action taken under this Act-(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

What is Good Faith

Section 2(11) of the Bharatiya Nyaya Sanhita, 2023: “Good Faith” - Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.

(Erstwhile section 52 of IPC)

While the BNS doesn't provide specific illustrations for “good faith” in Section 2(11), the concept is extensively applied throughout the legal framework, particularly in relation to **General Exceptions (Chapter III) of the Bharatiya Nyaya Sanhita, 2023, (hereinafter, the BNS)**. These exceptions outline situations where an act, though technically fulfilling the elements of an offence, might be excused or justified due to factors like mistake, necessity, or good faith.

Here are some examples where “good faith” plays a crucial role under the Bharatiya Nyaya Sanhita, 2023 (BNS):

Section 14 of the BNS: This section exempts an act done by a person who is bound by law to do it or who, due to a mistake of fact and not law, believes in good faith that they are bound to do it. This implies that an honest and reasonable mistake about one's legal obligations can negate criminal liability.

Section 15 of the BNS: This section protects judges acting judicially, provided they exercise power granted by law or act in good faith believing they have such power. This ensures judicial independence and allows judges to make decisions without fear of prosecution, as long as they act reasonably and honestly.

Sections 17, 19, 26, 27, 30, 31, 33, and 37 of the BNS: These sections repeatedly invoke the concept of “good faith” in various contexts, including acts justified by law, acts done to prevent harm, acts done for the benefit of others, communications made for another's benefit, and acts done in private defence. In all these scenarios, the presence of “good faith” signifies that the person acted reasonably, honestly, and without malicious intent.

Section 3(22) in the General Clauses Act, 1897

S. 3(22)- A thing shall be deemed to be done in good faith where it is in fact done honestly, whether it is done negligently or not;

Now, if we sum up all the ingredients of the term **“GOOD FAITH”** with reference to the duties and performance of ‘Revenue Officers’ in our Department, we will find that-

A ‘Revenue Officer’ having ordinary prudence must have done his duty in good faith if he/she satisfies the following conditions:-

- A. Sufficient opportunity of hearing** has been provided to all concerned keeping **transparency** into the matter.
- B. Proof of honest intent** is that there is no **prima facie evidence to show** that he/she has done or performed his/her duties **for any unlawful gain**.
- C. In performing his/her duties he/she follows the relevant provisions of Statute, departmental guidelines in true letter and Spirit.**

II. Section 218 in Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)

218. Prosecution of Judges and Public servants.

(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013-

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted:

Provided further that such Government shall take a decision within a period of one hundred and twenty days from the date of the receipt of the request for sanction and in case it fails to do so, the sanction shall be deemed to have been accorded by such Government:

Provided also that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 64, section 65, section 66, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79, section 143, section 199 or section 200 of the Bharatiya Nyaya Sanhita, 2023.

(2)No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3)The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

(4)Notwithstanding anything contained in sub-section (3), no Court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(5)The Central Government or the State Government, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held. **[Similar to Section 197 from Old CrPC]**

III. THE PREVENTION OF CORRUPTION (AMENDMENT) ACT, 2018

12. After section 17 of the principal Act, the following section shall be inserted, namely:—

“S.17A. (1) No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval— (a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government; (b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government; (c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.”

IV. Section 201 of BNS is required to be properly interpreted as it bears legal Consequences for Public Servants Framing False Documents.

S. 201 of BNS: Public servant framing an incorrect document with intent to cause injury

Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

V. Judicial Pronouncement

1. Suneeti Toteja Vs. State of UP & Ors. (2025 SCC Online SC 43)- Paragraph 24 to 29

“Para-29. As per the aforementioned proposition, it is only to be seen if the accused public servant was acting in the performance of his/her official duties, and if the answer is in the affirmative, then prior sanction for their prosecution is a condition precedent to the cognizance of the cases against them by the courts.”

2. Kailash Bundela Vs The State of Madhya Pradesh & Ors, (reported in 2024 SCC OnLine MP 7358)

“para 18- So far as question no. (ii) is concerned whether the petitioner is entitled to get any protection treating him as a Judge while dealing with the applications seeking grant of permission under Section 165(6) & (7) of Code of 1959, it is clear from perusal of definition of ‘Judge’ provided under the Act 1985 that the same includes not only the judge but also the officers acting or purporting to act in the discharge of his official or judicial duty or function as a quasi-judicial officer.”

3. Krishna Prasad Verma Vs. State of Bihar (2019) 10 SCC 640

“In Zunjarrao Bhikaji Nagarkar v. Union of India this Court held that wrong exercise of jurisdiction by a quasi judicial authority or mistake of law or wrong interpretation of law cannot be the basis for initiating disciplinary proceeding.....” .(para 7).

4. CRR No. 1487 of 2020 and 1488 of 2020 (Biswajit Goswami Vs. State of WB & Ors) and CRR 1488 of 2020 (Biswajit Goswami Vs. State of WB & Ors).

Upon reading the *non-obstante* clause, engrafted in Section 58 of the West Bengal Land Reforms Act, 1955, thereby providing immunity to the public officers like O.P. No.2 and O.P No.2 from legal proceedings, against the discharge of public functions in good faith under the Act referred to above, there is strong force in the submission of Mr. Mondal. The Court is not persuaded by the submission of Mr. Dutta that prohibition clause of Section 58 of the Act conferring immunity from prosecution attached to officials of L.R. Department is without any significance.

Learned Magistrate was thus statutorily prohibited to proceed with a complaint, alleging illegality therein in the official discharge of the duties, entrusted to O.P. No.1 and O.P. No.2 under the W.B.L.R. Act, 1955.

5. CRR 480 of 2024 (Manoj Kumar Sarkar Vs. The State of West Bengal & Ors)

“Due deliberation of the provision of Section 58 (1) of the WBLR Act would make it abundantly clear that the intention of the legislature is to provide protection to the Government officials attached to the Land Reforms Department against criminal charges for acts performed in good faith while discharging official duties”.

**In the High Court at Calcutta
Criminal Revisional Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Subhasis Dasgupta.

CRR No. 1488 of 2020

**Biswajit Goswami
Vs.
State of West Bengal & Ors.**

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| For the Petitioner | :Mr. Tapas Dutta, Adv. Mr. Mritunjoy Halder, Adv. |
| For Opposite Party Nos. 2 & 3 | :Mr. Kallol Mondal, Adv. Mr. Krishan Ray, Adv. Ms. Amrital Chel, Adv. Mr. Souvik Das, Adv. |
| For the State | :Ms. Sukanya Bhattacharya, Adv. Md. Kutubuddin, Adv. |
| Heard on | : 13.01.2021 |
| Judgment on | : 27.01.2021 |

Subhasis Dasgupta, J:-

The impugned order dated 17th August, 2020, passed by learned Chief Metropolitan Magistrate, Kolkata in complaint case no. C-45 of 2020, rejecting

the application under Section 156(3) Cr.P.C. is subject of challenge in this revisional application.

Learned advocate for the petitioner, Mr. Dutta, submitted that private opposite parties nos. 2 to 3 had misused their official position with culpable intention by causing damage to some record of rights rendering thereby such documents to become non-existent from the official custody of such officers in connection with some proceedings, conducted under the WBLR Act by the Block Land & Land Reforms Officer, Bardhaman-II, Barsul, and Revenue Officer, Bardhaman-II, Barsul, Purba Bardhaman, respectively, and in consequence thereof petitioner had to suffer unnecessary harassment and prejudice requiring intervention by the Court.

Assailing the impugned order, learned advocate for the petitioner contended that since the victim/petitioner had his office situated within the territorial jurisdiction of learned Chief Metropolitan Magistrate, Kolkata, petitioner could very well institute a case seeking redressal under Section 156(3) Cr.P.C. being a victim of circumstances.

It was also strenuously submitted by the learned advocate for the petitioner that no sanction under Section 197 Cr.P.C. was required to be obtained so as to prosecute the private opposite parties no. 2 and 3, who might be public officials, on the score that the alleged commission of offence was not necessarily connected with the discharge of official duties of the opposite party nos. 2 and 3. And the observation made by the learned Magistrate, while declining to refer the application under Section 156(3)

Cr.P.C. to the concerned police station for investigation, that the offence attempted to be made out, at best might constitute offence under Section 166 I.P.C., amounted to prejudging the fate of investigation, which was highly illegal.

Upon taking such grounds, learned advocate for the petitioner sought for interference by this court, so that there can be effective investigation in terms of the application under Section 156 (3) Cr.P.C. filed by the *de-facto* complainant/petitioner.

Ms. Sukanya Bhattacharya, learned advocate representing State replied that there left nothing to be interfered with, as the court below had already provided sufficient reasons including the absence of territorial jurisdiction of learned Magistrate to take care of the offence complained of. More so, there left no materials suggestive of transpiring any criminal animosity against petitioner by the private opposite party nos. 2 and 3, and therefore the prosecution sought to be instituted was a product of suspicion, not supported by any tangible materials.

Mr. Mondal, learned advocate representing private opposite party nos. 2 and 3 reacted to the contention raised submitting that in view of the statutory protection, granted under Section 58 (2) of the West Bengal Land Reforms Act, 1955 to public officials, attached with the Land Reforms Department for the due discharge of the function under the said Act, there could not be any criminal prosecution instituted against the public officials in respect of the

acts done or performed in good faith or intended to be done, while discharging official duties.

The prohibition clause engrafted in Section 58(2) of the Act referred above, according to Mr. Mondal, would not justify instant prosecution, what was sought to be instituted by the petitioner. Mr. Mondal further submitted that petitioner not being a victim of cheating, nor criminal misappropriation, nor criminal breach of trust, the territorial jurisdiction of the court, before whom the case was instituted, would not be available, referring Section 181 Cr.P.C.

Challenge was further raised by Mr. Mondal that in connection with appellate proceeding taken out earlier over the same issue, the appellate Authority disbelieved the contention of the petitioner, now raised in this case.

Raising such challenges, learned advocate for the opposite party nos. 2 and 3 proposed for dismissal of the revisional application.

The crux of the allegation, as raised in the instant case is that private opposite party nos. 2 and 3, being public officials under Land Reforms Department, misused their position thereby rendering some of the record of rights to become non-existent from the official custody of the L.R. Department, in a colourful exercise of the official position of private opposite party Nos. 2 and 3, which was described to be illegal. A prosecution was thus sought to be instituted expressing grievance for due redressal.

Before the points raised by the learned advocate for the petitioner referred to above are dealt with, the pertinent point raised by the opposite

parties challenging the maintainability of the criminal prosecution, and that too before a learned Magistrate of Kolkata, needs to be addressed and answered first.

Mr. Mondal, for the opposite party nos. 2 and 3 referring Section 58(2) of the West Bengal Land Reforms Act, 1955, contended that in view of the statutory protection, granted to the public officials attached to L.R. Department, while discharging official duties, thereby ousting jurisdiction of Court, there could not be any legal proceeding instituted simply by taking out a petition under Section 156(3) Cr.P.C. before learned Chief Metropolitan Magistrate, which was highly illegal.

Mr. Dutta, learned advocate for the petitioner proceeded to reply against the point raised by Mr. Mondal submitting that the *non-obstante* clause engrafted therein ousting the jurisdiction of court should not have been precedence to the alleged misuse of official position by public officials attached to the L.R. Department for their culpable intention, and such culpability of O.P No. 2 and 3 should have been taken in view for the seriousness of the complaint, before making rejection of a complaint under Section 156(3) Cr.P.C.

It would be profitable here to refer the relevant Section of W.B.L.R. Act 1955, which may be mentioned as hereunder:

***“58. Protection of action taken under this Act.— (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.*”**

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.”

Upon reading the *non-obstante* clause, engrafted in Section 58 of the West Bengal Land Reforms Act, 1955, thereby providing immunity to the public officers like O.P. No.2 and O.P. No.2 from legal proceedings, against the discharge of public functions in good faith under the Act referred to above, there is strong force in the submission of Mr. Mondal. The Court is not persuaded by the submission of Mr. Dutta that prohibition clause of Section 58 of the Act conferring immunity from prosecution attached to officials of L.R. Department is without any significance.

Learned Magistrate was thus statutorily prohibited to proceed with a complaint, alleging illegality therein in the official discharge of the duties, entrusted to O.P. No.1 and O.P. No.2 under the W.B.L.R. Act, 1955.

As regards the points raised surfacing over the lack of territorial jurisdiction, as observed by the learned Magistrate in the impugned order, Mr. Dutta had challenged the same referring a decision reported in **(2020) 10 SCC 92** rendered in the case of ***Kaushik Chatterjee Vs. State of Haryana & Ors.***, in order to establish that the ratio laid down in such case would be applied over this case so as to confer territorial jurisdiction to learned court below. The complainant instituted a criminal prosecution claiming himself to be a victim of circumstances.

Learned advocate for both the opposite parties reacted to such decision submitting that it would hardly find any application in the given context of this case, as the same might be applicable in a case based on the allegation of criminal breach of trust, cheating and criminal misappropriation under Section 181 Cr.P.C.

Upon perusal of such judgment, it appears that three loans were sanctioned in connection with such loan transactions, where there was allegation of having committed offence under Section 406/420 Cr.P.C. etc. An attempt was made to transfer all such cases arising out of three loans transactions already sanctioned, leading to submission of three charge-sheets, and in connection therewith, the Apex Court proceeded to decide the ratio on the question of territorial jurisdiction of court, both in civil and criminal cases, the reference of which may be found in Para-17 of such decision. It would be profitable here to refer Para-17 of such judgment, which is mentioned as hereunder:

“17. As seen from the pleadings and the rival contentions, the petitioner seeks transfer, primarily on the ground of lack of territorial jurisdiction. While the question of territorial jurisdiction in civil cases, revolves mainly around (i) cause of action; or (ii) location of the subject-matter of the suit or (iii) the residence of the defendant, etc., according as the case may be, the question of territorial jurisdiction in criminal cases revolves around (i) place of commission of the offence or (ii) place where the consequence of an act, both of which constitute an offence, ensues or (iii) place where the accused was found or (iv) place where the victim was found or (v) place where the property in respect of which the offence was committed, was found or (vi) place where the property forming the subject-matter of an offence was required to be returned or accounted for, etc., according as the case may be.”

The jurisdiction of the criminal courts in inquiries and trials has been covered in Chapter-XIII of the Code of Criminal Procedure. Since the instant case was never founded on the allegation of having committed criminal breach of trust, nor criminal misappropriation, nor cheating, the ratio of judgment, so referred above, would be without any significance.

As regards the point raised by the petitioner pertaining to the non-requirement of the sanction, so as to prosecute private opposite party nos. 2 and 3, reliance was placed on a decision reported in **(2019) 6 SCC 111** rendered in the case of **S.K. Miglani Vs. State (NCT of Delhi)**.

The point so raised, needs only to be answered in a case when the criminal prosecution itself is very much maintainable in a criminal court having its territorial jurisdiction therefor. But upon sensing presence of prohibition clause ousting the jurisdiction of a criminal court, as mentioned above this court desists from answering the issue being irrelevant one, even at the cost of academic exercise.

Reliance was further made by Mr. Dutta to a constitutional Bench judgment delivered in the case of **Lalita Kumari Vs. Government of Uttar Pradesh & Ors.** reported in **(2014) 2 SCC 1**, so as to establish that the learned court below made some gross illegality, while refusing the prayer for Section 156 Cr.P.C.

When the magisterial discretion appears to have been appropriately exercised judiciously, reasonably and rationally supplying reasons therefor behind the rejection of petition under Section 156(3) Cr.P.C., such discretion

of the learned Magistrate can hardly be doubted any more. By the order impugned the Magisterial Authority has been rightly discharged adhering to the established principle of law requiring no interference, as proposed by petitioner.

More so, the petition previously filed addressed to the Officer-in-Charge of the concerned police station expressing the self same grievance has already been forwarded to the Superintendent of Police, Purba Bardhaman on the point of jurisdiction, what is found available from a report, submitted by Officer-in-Charge, Hare Street Police Station on 21.12.2020, through learned advocate representing the State.

Having considered the rival submission of the parties, as mentioned in the discussion hereinabove, the instant revisional application is without any merits.

The impugned order will, thus go uninterfered with.

The criminal revisional application accordingly stands dismissed.

Office is directed to communicate this order to the concerned Court below without making any delay.

Urgent photostat certified copy of this judgment, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with all necessary formalities.

(Subhasis Dasgupta, J.)

**In the High Court at Calcutta
Criminal Revisional Jurisdiction
Appellate Side**

Present:

The Hon'ble Justice Subhasis Dasgupta.

CRR No. 1487 of 2020

**Biswajit Goswami
Vs.
State of West Bengal & Ors.**

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|----------------------------------|---|
| For the Petitioner | :Mr. Tapas Dutta, Adv. Mr. Mritunjoy Halder, Adv. |
| For Opposite Party Nos. 2 & 3 | :Mr. Kallol Mondal, Adv. Mr. Krishan Ray, Adv. Ms. Amrital Chel, Adv. Mr. Souvik Das, Adv. |
| For the State | :Ms. Sukanya Bhattacharya, Adv. Md. Kutubuddin, Adv. |
| Heard on | : 13.01.2021 |
| Judgment on | : 27.01.2021 |

Subhasis Dasgupta, J:-

The impugned order dated 17th August, 2020, passed by learned Chief Metropolitan Magistrate, Kolkata in complaint case no. C-44 of 2020, rejecting

the application under Section 156(3) Cr.P.C. is subject of challenge in this revisional application.

Learned advocate for the petitioner, Mr. Dutta, submitted that private opposite parties no. 2 to 3 had misused their official position with culpable intention by manufacturing fictitious record of right i.e. by creating new khatian in the name of petitioner in connection with mutation proceeding before the Block Land & Land Reforms Officer, Bardhaman-II, Barsul, and Revenue Officer, Bardhman-II, Barsul, Purba Bardhaman, respectively, which ultimately turned out to be fictitious, false, fabricated causing huge financial loss and prejudice to the petitioner.

Assailing the impugned order, learned advocate for the petitioner contended that since the victim/petitioner had his office situated within the territorial jurisdiction of learned Chief Metropolitan Magistrate, Kolkata, petitioner could very well institute a case seeking redressal under Section 156(3) Cr.P.C. being a victim of circumstances.

It was also strenuously submitted by the learned advocate for the petitioner that no sanction under Section 197 Cr.P.C. was required to be obtained so as to prosecute the private opposite parties no. 2 and 3, who might be public officials, on the score that the alleged commission of offence was not necessarily connected with the discharge of official duties of the opposite party nos. 2 and 3. And the observation made by the learned Magistrate, while declining to refer the application under Section 156(3) Cr.P.C. to the concerned police station for investigation, that the offence

attempted to be made out, at best might constitute offence under Section 166 I.P.C., amounted to prejudging the fate of investigation, which was highly illegal.

Upon taking such grounds, learned advocate for the petitioner sought for interference by this court, so that there can be effective investigation in terms of the application under Section 156 (3) Cr.P.C. filed by the *de-facto* complainant/petitioner.

Ms. Sukanya Bhattacharya, learned advocate representing State replied that there left nothing to be interfered with, as the court below had already provided sufficient reasons including the absence of territorial jurisdiction of learned Magistrate to take care of the offence complained of. More so, there left no materials suggestive of transpiring any criminal animosity against petitioner by the private opposite party nos. 2 and 3, and therefore the prosecution sought to be instituted was a product of suspicion, not supported by any tangible materials.

Mr. Mondal, learned advocate representing private opposite party nos. 2 and 3 reacted to the contention raised submitting that in view of the statutory protection, granted under Section 58 (2) of the West Bengal Land Reforms Act, 1955 to public officials, attached with the Land Reforms Department for the due discharge of the function under the said Act, there could not be any criminal prosecution instituted against the public officials in respect of the acts done or performed in good faith or intended to be done, while discharging official duties.

The prohibition clause engrafted in Section 58(2) of the Act referred above, according to Mr. Mondal, would not justify instant prosecution, what was sought to be instituted by the petitioner. Mr. Mondal further submitted that petitioner not being a victim of cheating, nor criminal misappropriation, nor criminal breach of trust, the territorial jurisdiction of the court, before whom the case was instituted, would not be available, referring Section 181 Cr.P.C.

Raising such challenges, learned advocate for the opposite party nos. 2 and 3 proposed for dismissal of the revisional application.

The crux of the allegation, as raised in the instant case is that private opposite party nos. 2 and 3 being public officials under Land Reforms Department misused their position in connection with a mutation proceeding, and thereby manufactured, fabricated records of rights creating new khatians, which ultimately turned out to be false and fake. The petitioner had to incur harassment to get the record of rights corrected.

Before the points raised by the learned advocate for the petitioner referred to above are dealt with, the pertinent point raised by the opposite parties challenging the maintainability of the criminal prosecution, and that too before a learned Magistrate of Kolkata, needs to be addressed and answered first.

Mr. Mondal, for the opposite party nos. 2 and 3 referring Section 58(2) of the West Bengal Land Reforms Act, 1955, contended that in view of the statutory protection, granted to the public officials attached to L.R.

Department, while discharging official duties, thereby ousting jurisdiction of Court, there could not be any legal proceeding instituted simply by taking out a petition under Section 156(3) Cr.P.C. before learned Chief Metropolitan Magistrate, which was highly illegal.

Mr. Dutta, learned advocate for the petitioner proceeded to reply against the point raised by Mr. Mondal submitting that the *non-obstante* clause engrafted therein ousting the jurisdiction of court should not have been precedence to the alleged misuse of official position by public officials attached to the L.R. Department for their culpable intention and such culpability of O.P No. 2 and 3 should have been taken in view for the seriousness of the complaint, before making rejection of a complaint under Section 156(3) Cr.P.C.

It would be profitable here to refer the relevant Section of W.B.L.R. Act 1955, which may be mentioned as hereunder:

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Learned Magistrate was thus statutorily prohibited to proceed with a complaint, alleging illegality therein in the official discharge of the duties, entrusted to O.P. No.1 and O.P. No.2 under the W.B.L.R. Act, 1955.

As regards the points raised surfacing over the lack of territorial jurisdiction, as observed by the learned Magistrate in the impugned order, Mr. Dutta had challenged the same referring a decision reported in **(2020) 10 SCC 92** rendered in the case of ***Kaushik Chatterjee Vs. State of Haryana & Ors.***, in order to establish that the ratio laid down in such case would be applied over this case so as to confer territorial jurisdiction to learned court below. The complainant instituted a criminal prosecution claiming himself to be a victim of circumstances.

Learned advocate for both the opposite parties reacted to such decision submitting that it would hardly find any application in the given context of this case, as the same might be applicable in a case based on the allegation of

criminal breach of trust, cheating and criminal misappropriation under Section 181 Cr.P.C.

Upon perusal of such judgment, it appears that three loans were sanctioned in connection with such loan transactions, where there was allegation of having committed offence under Section 406/420 Cr.P.C. etc. An attempt was made to transfer all such cases arising out of three loans transactions already sanctioned, leading to submission of three charge-sheets, and in connection therewith, the Apex Court proceeded to decide the ratio on the question of territorial jurisdiction of court, both in civil and criminal cases, the reference of which may be found in Para-17 of such decision. It would be profitable here to refer Para-17 of such judgment, which is mentioned as hereunder:

“17. As seen from the pleadings and the rival contentions, the petitioner seeks transfer, primarily on the ground of lack of territorial jurisdiction. While the question of territorial jurisdiction in civil cases, revolves mainly around (i) cause of action; or (ii) location of the subject-matter of the suit or (iii) the residence of the defendant, etc., according as the case may be, the question of territorial jurisdiction in criminal cases revolves around (i) place of commission of the offence or (ii) place where the consequence of an act, both of which constitute an offence, ensues or (iii) place where the accused was found or (iv) place where the victim was found or (v) place where the property in respect of which the offence was committed, was found or (vi) place where the property forming the subject-matter of an offence was required to be returned or accounted for, etc., according as the case may be.”

The jurisdiction of the criminal courts in inquiries and trials has been covered in Chapter-XIII of the Code of Criminal Procedure. Since the instant case was never founded on the allegation of having committed criminal breach

of trust, nor criminal misappropriation, nor cheating, the ratio of judgment, so referred above, would be without any significance.

As regards the point raised by the petitioner pertaining to the non-requirement of the sanction, so as to prosecute private opposite party nos. 2 and 3, reliance was placed on a decision reported in **(2019) 6 SCC 111** rendered in the case of **S.K. Miglani Vs. State (NCT of Delhi)**.

The point so raised, needs only to be answered in a case when the criminal prosecution itself is very much maintainable in a criminal court having its territorial jurisdiction therefor. But upon sensing presence of prohibition clause ousting the jurisdiction of a criminal court, as mentioned above, this court desists from answering the issue being irrelevant one, even at the cost of academic exercise.

Reliance was further made by Mr. Dutta to a constitutional Bench judgment delivered in the case of **Lalita Kumari Vs. Government of Uttar Pradesh & Ors.** reported in **(2014) 2 SCC 1**, so as to establish that the learned court below made some gross illegality, while refusing the prayer for Section 156 Cr.P.C.

When the magisterial discretion appears to have been appropriately exercised judiciously, reasonably and rationally supplying reasons therefor behind the rejection of petition under Section 156(3) Cr.P.C., such discretion of the learned Magistrate can hardly be doubted any more. By the order impugned the Magisterial Authority has been rightly discharged adhering to

the established principle of law requiring no interference, as proposed by petitioner.

More so, the petition previously filed addressed to the Officer-in-Charge of the concerned police station expressing the self same grievance has already been forwarded to the Superintendent of Police, Purba Bardhaman on the point of jurisdiction, what is found available from a report, submitted by Officer-in-Charge, Hare Street Police Station on 21.12.2020, through learned advocate representing the State.

Having considered the rival submission of the parties, as mentioned in the discussion hereinabove, the instant revisional application is without any merits.

The impugned order will, thus go uninterfered with.

The criminal revisional application accordingly stands dismissed.

Office is directed to communicate this order to the concerned Court below without making any delay.

Urgent photostat certified copy of this judgment, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with all necessary formalities.

(Subhasis Dasgupta, J.)

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

CRR 480 of 2024

Manoj Kumar Sarkar

Vs.

The State of West Bengal & Anr.

For the petitioner :Mr. Kunaljit Bhattacharjee, Adv.

Mr. Haider Ali, Adv.

Mr. Satyam Sarkar, Adv.

Mr. Aloke Saha, Adv.

For the State :Mr. Nilay Chakraborty, Ld. APP

Ms. Narmata Das, Adv.

Heard On : :03.04.2025

Judgment On : :11.04.2025

Bibhas Ranjan De, J. :

1. The petitioner by invoking jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 (for short BNSS) has prayed for quashment of the charge sheet being no.

233 of 2024 dated 29.06.2024 arising out of Dhupguri Police Station Case No. 557 of 2023 dated 13.11.2023 corresponding to GR Case No. 5947 of 2024 under Sections 420/468/471/120B/219/34 of the Indian Penal Code (for short IPC) which is presently pending before the Chief Judicial Magistrate, Jalpaiguri.

Background:-

2. The instant prosecution finds its genesis from a petition dated 30.10.2023 filed by the opposite party herein under Section 156(3) of the Code of Criminal Procedure (for short CrPC) which in turn was forwarded to the I.C. of Dhupguri PS for investigation. Upon receipt, the concerned Police Station registered a specific case under Sections 420/468/471/409/120B/34 of the IPC and after thorough investigation filed a charge sheet against the petitioner and other accused under Sections 420/468/471/409/120B/34 of the IPC. Being aggrieved, the petitioner has preferred the instant revision application.
3. The main grievance contained in the petition under Section 156(3) of the CrPC is to the effect that after demise of the father of the complainant/opposite party herein, the

possession of land admeasuring 1.22 acres was distributed among the sole legal heirs of the deceased i.e. the complainant and his two sisters who had acquired the said land by virtue of inheritance. It is alleged that in 2021 the complainant came to know that the accused persons by means of a forged document cheated the complainant and his family members by transferring few decimals of land in their own names. It has been further alleged that the petitioner who is a Revenue Officer in collusion with other accused persons changed the record of rights and mutated the same in favour of the opposite party. It is also pertinent to mention that over this issue a Title Suit has been filed before the Civil Judge, Junior Division, 2nd Court Jalpaiguri vide Title Suit no. 671 of 2023 which is awaiting disposal.

Arguments advanced :-

4. Ld. Counsel, Mr. Kunaljit Bhattacharjee, appearing on behalf of the petitioners has vehemently submitted that the petitioner being a Government Official holding designation of Revenue Officer under the aegis of Dhupguri Block Land and Land Reforms Officer (for short B.L.L.R.O.) only committed the alleged act in discharge of his official duties in good faith. In

the given circumstances, the petitioner is entitled to get statutory protection under Section 58 (1) of the West Bengal Land Reforms Act, 1955 (for short WBLR Act) which is provided to public officers attached with the Land Reforms Department for due discharge of function under the said act in good faith.

5. Before parting with, Mr. Bhattacharjee has contended that the over the self same dispute admittedly a title suit is pending and therefore allowance of further continuation of the instant criminal prosecution would be an abuse of the process of law.
6. Per contra, Mr. Niloy Chakraborty Ld. Additional Public Prosecutor appearing on behalf of the State by refuting the submission of Mr. Bhattacharjee has vehemently submitted that during investigation Police has come across certain evidence in order to prima facie make out the alleged offences against the petitioner and raises a formal objection against quashment of the proceedings.
7. None appears on behalf of the opposite parties.

Analysis:-

8. Before delving into the intricacies of the case at hand, it would be profitable to first reproduce the specific provision of Section 58 of the WBLR Act which runs as follows:-

“58. Protection of action taken under this Act.- (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.”

9. Now coming to the case at hand, the petitioner is admittedly a Revenue Officer under the B.L.L.R.O. of Dhupguri, who disposed of an application under Section 50 of the WBLR Act thereby mutating certain shares of land on the basis of field inquiry and possession in favour of one Surath Chandra Roy. From the materials on record, it has come to the notice of this Court that certain procedural formalities were complied with by the petitioner. If the complainant felt unhappy with the order of the petitioner he ought to have filed an appeal before the District Land Reforms Officer in accordance with the provision of Section 54 of the WBLR Act. If the opposite party

was still aggrieved with the order of the District Land Reforms Officer, the appropriate forum for further challenge was the Ld. West Bengal Land Reforms & Tenancy Tribunal. Therefore, a specific prescribed procedure was available to the opposite party to challenge the order passed by the petitioner but the opposite party pried into the track of criminal prosecution.

10. Now, even if the story of the complainant with regard to the fact that the petitioner has wrongly made alteration in the record of rights, is said to be gospel truth still it does not prima facie make out any criminal liability on the petitioner in connection with the instant revision application. Moreover, admittedly a civil litigation being a Title suit is pending before the concerned Court of Civil Jurisdiction. To add to that, a careful perusal of the charge sheet would suggest that no incriminating material has been collected to prima facie make out any case against the petitioner who only observed his duty in official capacity.

11. Taking the risk of repetition it would be pertinent to mention that under the auspices of the WBLR Act, the B.L. & L.R.O. possesses exclusive jurisdiction over the rectification and modification of records of rights, thereby rendering their

decisions authoritative and binding. Consequently, any individual aggrieved by such an order may seek redress by preferring an appeal before the District Land and Land Reforms Officer, thus providing a vital safe guard against protection injustices and ensuring that the principles of fairness and equity are upheld in realm of land administration. The allegation made in this case cannot lead to any criminal liability in terms of protection provided in Section 58(1) of the WBLR Act.

12. Due deliberation of the provision of Section 58 (1) of the WBLR Act would make it abundantly clear that the intention of the legislature is to provide protection to the Government officials attached to the Land Reforms Department against criminal charges for acts performed in good faith while discharging official duties.

13. In the above conspectus, this Court has no option left but to exercise inherent jurisdiction under Section 528 of the BNSS to quash the criminal proceedings in connection with GR Case No. 5947 of 2024 arising out of Dhupguri Police Station Case No. 557 of 2023 against the petitioner **only**.

- 14.** As a sequel, the instant revision application being no. CRR 480 of 2024 stands allowed.
- 15.** Connected applications, if there be any, stand disposed of accordingly.
- 16.** All parties to this revision application shall act on the server copy of this order downloaded from the official website of this Court.
- 17.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

CRR 480 of 2024

Manoj Kumar Sarkar

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For the State :Mr. Nilay Chakraborty, Ld. APP

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Heard On : :03.04.2025

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2. The instant prosecution finds its genesis from a petition dated 30.10.2023 filed by the opposite party herein under Section 156(3) of the Code of Criminal Procedure (for short CrPC) which in turn was forwarded to the I.C. of Dhupguri PS for investigation. Upon receipt, the concerned Police Station registered a specific case under Sections 420/468/471/409/120B/34 of the IPC and after thorough investigation filed a charge sheet against the petitioner and other accused under Sections 420/468/471/409/120B/34 of the IPC. Being aggrieved, the petitioner has preferred the instant revision application.
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possession of land admeasuring 1.22 acres was distributed among the sole legal heirs of the deceased i.e. the complainant and his two sisters who had acquired the said land by virtue of inheritance. It is alleged that in 2021 the complainant came to know that the accused persons by means of a forged document cheated the complainant and his family members by transferring few decimals of land in their own names. It has been further alleged that the petitioner who is a Revenue Officer in collusion with other accused persons changed the record of rights and mutated the same in favour of the opposite party. It is also pertinent to mention that over this issue a Title Suit has been filed before the Civil Judge, Junior Division, 2nd Court Jalpaiguri vide Title Suit no. 671 of 2023 which is awaiting disposal.

Arguments advanced :-

4. Ld. Counsel, Mr. Kunaljit Bhattacharjee, appearing on behalf of the petitioners has vehemently submitted that the petitioner being a Government Official holding designation of Revenue Officer under the aegis of Dhupguri Block Land and Land Reforms Officer (for short B.L.L.R.O.) only committed the alleged act in discharge of his official duties in good faith. In

the given circumstances, the petitioner is entitled to get statutory protection under Section 58 (1) of the West Bengal Land Reforms Act, 1955 (for short WBLR Act) which is provided to public officers attached with the Land Reforms Department for due discharge of function under the said act in good faith.

5. Before parting with, Mr. Bhattacharjee has contended that the over the self same dispute admittedly a title suit is pending and therefore allowance of further continuation of the instant criminal prosecution would be an abuse of the process of law.
6. Per contra, Mr. Niloy Chakraborty Ld. Additional Public Prosecutor appearing on behalf of the State by refuting the submission of Mr. Bhattacharjee has vehemently submitted that during investigation Police has come across certain evidence in order to prima facie make out the alleged offences against the petitioner and raises a formal objection against quashment of the proceedings.
7. None appears on behalf of the opposite parties.

Analysis:-

8. Before delving into the intricacies of the case at hand, it would be profitable to first reproduce the specific provision of Section 58 of the WBLR Act which runs as follows:-

“58. Protection of action taken under this Act.- (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

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9. Now coming to the case at hand, the petitioner is admittedly a Revenue Officer under the B.L.L.R.O. of Dhupguri, who disposed of an application under Section 50 of the WBLR Act thereby mutating certain shares of land on the basis of field inquiry and possession in favour of one Surath Chandra Roy. From the materials on record, it has come to the notice of this Court that certain procedural formalities were complied with by the petitioner. If the complainant felt unhappy with the order of the petitioner he ought to have filed an appeal before the District Land Reforms Officer in accordance with the provision of Section 54 of the WBLR Act. If the opposite party

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10. Now, even if the story of the complainant with regard to the fact that the petitioner has wrongly made alteration in the record of rights, is said to be gospel truth still it does not prima facie make out any criminal liability on the petitioner in connection with the instant revision application. Moreover, admittedly a civil litigation being a Title suit is pending before the concerned Court of Civil Jurisdiction. To add to that, a careful perusal of the charge sheet would suggest that no incriminating material has been collected to prima facie make out any case against the petitioner who only observed his duty in official capacity.

11. Taking the risk of repetition it would be pertinent to mention that under the auspices of the WBLR Act, the B.L. & L.R.O. possesses exclusive jurisdiction over the rectification and modification of records of rights, thereby rendering their

decisions authoritative and binding. Consequently, any individual aggrieved by such an order may seek redress by preferring an appeal before the District Land and Land Reforms Officer, thus providing a vital safe guard against protection injustices and ensuring that the principles of fairness and equity are upheld in realm of land administration. The allegation made in this case cannot lead to any criminal liability in terms of protection provided in Section 58(1) of the WBLR Act.

12. Due deliberation of the provision of Section 58 (1) of the WBLR Act would make it abundantly clear that the intention of the legislature is to provide protection to the Government officials attached to the Land Reforms Department against criminal charges for acts performed in good faith while discharging official duties.

13. In the above conspectus, this Court has no option left but to exercise inherent jurisdiction under Section 528 of the BNSS to quash the criminal proceedings in connection with GR Case No. 5947 of 2024 arising out of Dhupguri Police Station Case No. 557 of 2023 against the petitioner **only**.

- 14.** As a sequel, the instant revision application being no. CRR 480 of 2024 stands allowed.
- 15.** Connected applications, if there be any, stand disposed of accordingly.
- 16.** All parties to this revision application shall act on the server copy of this order downloaded from the official website of this Court.
- 17.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]

OFFICE OF THE
DISTRICT MAGISTRATE & COLLECTOR
SOUTH 24 PARGANAS

Office: 12, Biplabi Kanai Bhattacharya Sarani, Alipore, Kolkata – 700027
Phone: 033-2449 9944 / 2479 1694, Fax: 033-2448 7871
Email: dm.s24pgs@gmail.com, dm-ali@nic.in



Memo No. 106 (4)/com/DM

Date : 30.05.2025

To

1. The Joint Commissioner of Police (HQ)
Kolkata Police Commissionerate.
2. Superintendant of Police Baruipur PD.
3. Superintendant of Police Diamond Harbour PD.
4. Superintendant of Police Sundarban PD.

Subject: Circulation of Court-Directed Proceeding Regarding Institution
of Criminal Proceedings against Officials vested with Quasi-
Judicial Powers of Land Administration Officials.

Sir,

This is to bring to your attention that, pursuant to the directions of the Hon'ble High Court in WPA 18315 of 2024, the Additional Chief Secretary to the Government of West Bengal and Land Reforms Commissioner has drawn up a proceeding in the matter. This proceeding has been duly communicated to this office with instructions to circulate the same among all relevant authorities.

The matter pertains to the challenges faced by officials in the land administration setup while exercising their quasi-judicial powers, particularly in light of complaints being filed against them before Police and/or Judicial authorities.

You are hereby requested to circulate the copy of the said order to all Police Stations (Thanas) under your jurisdiction, so that officers may familiarize themselves with the applicable laws and procedures, and act accordingly.

Additionally, you are requested to advise the Investigating Officer (IO) to seek a factual report from the appropriate supervisory officer—namely the BL&LRO, SDL&LRO, or DL&LRO—as outlined on page 24 of the order, prior to taking any further steps in such matters.

This initiative aims to ensure due diligence, legal conformity, and protection of officers discharging quasi-judicial responsibilities.

Enclosure: Copy of the Proceeding.


District Magistrate
South 24 Parganas

Government of West Bengal
Department of Land and Land Reforms and Refugee Relief and Rehabilitation
Section : B(1) Branch -A&P Branch
Nabanna , Howrah-711102

No : 1710 - A&P/1M-02/2025

Date: 30/04/2025

From : The Deputy Secretary to the Govt. Of West Bengal.

- To :**
1. Shri Subhasis Mukherjee, Assistant Director, ADM &DL&LRO, Purba Bardhaman, S/o Shri Ranajit Kumar Mukherjee, Resident of Senar Bagan ,Rather Sarak, Chandannagar, Hooghly ,West Bengal ,Pin code- 712136.
 2. Shri Sunanda Roy, R.O posted in the office of the BL&LRO ,Khanakul-I ,Hooghly S/o Shri Parimalendu Roy, Resident of 14/1 Rammohan Road, Nabagram, Hooghly ,West Bengal, Pin code : 712246
 3. Shri Supriya Pandey, R.O , posted at the office of the BL&LRO ,Habibpur ,Malda, S/o Shri Santi Kumar Pandey, Resident of Natun Malancha ,Malancha, Murshidabad, West Bengal, Pin code :742202.

Subject : Compliance of the solemn order dated 10/02/2025 passed by the Hon'ble High Court, Calcutta in W.P.A 18315 of 2024 (in the matter of the Subhasis Mukherjee and others Vs. The State of West Bengal and others).

With reference to the above noted subject, the undersigned is directed to forward herewith the order passed by the LRC and Additional Chief Secretary of this department in compliance of the solemn order, dated 10/02/2025 passed by the Hon'ble High Court, Calcutta in WPA No 18315 of 2024 in the matter of the Subhasis Mukherjee and others Vs. The State of West Bengal and others.

Enclo: As stated.

Sd/-

Deputy Secretary to the Govt. of West Bengal.

No: 1710 /1(50)-A&P

Date: 30/04/2025

Copy along with enclosure is forwarded for information and necessary action to:-

1. The DLRS &Jt. LRC , W.B.
2. The District Magistrate & Collector
3. The ADM&DL&LRO , Hooghly.-He is requested to serve the order upon Shri Sunanda Roy R.O under proper receipt.
- 4.The ADM& DL&LRO , Purba Bardhaman.- He is requested to serve the order upon Shri Subhasis Mukherjee ,Assistant Director ,under proper receipt.
5. The ADM&DL&LRO , Malda.- She is requested to serve the order upon Shri Supriya Pandey, R.O, under proper receipt.
- ✓ 6. The ADM &DL&LRO (Age)

Shatan

Deputy Secretary to the Govt. of West Bengal.

Government of West Bengal
Department of Land and Land Reforms and Refugee Relief and Rehabilitation
Section : B(1) Branch -A&P Branch
Nabanna , Howrah-711102

No : 1710 - A&P/1M-02/2025

Date: 30/04/2025

From : The Deputy Secretary to the Govt. Of West Bengal.

- To :**
- 1. Shri Subhasis Mukherjee, Assistant Director, ADM &DL&LRO, Purba Bardhaman, S/o Shri Ranajit Kumar Mukherjee, Resident of Senar Bagan ,Rather Sarak, Chandannagar, Hooghly ,West Bengal ,Pin code- 712136.**
 - 2. Shri Sunanda Roy, R.O posted in the office of the BL&LRO ,Khanakul-I ,Hooghly S/o Shri Parimalendu Roy, Resident of 14/1 Rammohan Road, Nabagram, Hooghly ,West Bengal, Pin code : 712246**
 - 3. Shri Supriya Pandey, R.O , posted at the office of the BL&LRO ,Habibpur ,Malda, S/o Shri Santi Kumar Pandey, Resident of Natun Malancha ,Malancha, Murshidabad, West Bengal, Pin code :742202.**

Subject : Compliance of the solemn order dated 10/02/2025 passed by the Hon'ble High Court, Calcutta in W.P.A 18315 of 2024 (In the matter of the Subhasis Mukherjee and others Vs. The State of West Bengal and others).

With reference to the above noted subject, the undersigned is directed to forward herewith the order passed by the LRC and Additional Chief Secretary of this department in compliance of the solemn order, dated 10/02/2025 passed by the Hon'ble High Court, Calcutta in WPA No 18315 of 2024 in the matter of the Subhasis Mukherjee and others Vs. The State of West Bengal and others.

Encl: As stated.

Sd/-

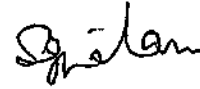
Deputy Secretary to the Govt. of West Bengal.

No: 1710 /1(50)-A&P

Date: 30/04/2025

Copy along with enclosure is forwarded for information and necessary action to:-

1. The DLRS &Jt. LRC , W.B.
- ✓ 2. The District Magistrate & Collector (All)
3. The ADM&DL&LRO , Hooghly.-He is requested to serve the order upon Shri Sunanda Roy R.O under proper receipt.
- 4.The ADM& DL&LRO , Purba Bardhaman.- He is requested to serve the order upon Shri Subhasis Mukherjee ,Assistant Director ,under proper receipt.
5. The ADM&DL&LRO , Malda.- She is requested to serve the order upon Shri Supriya Pandey, R.O, under proper receipt.
6. The ADM &DL&LRO




Deputy Secretary to the Govt. of West Bengal.

West Bengal Form No. 270

ORDER SHEET
(RULE 129 OF THE RECORDS MANUAL, 1917)

Nature of the Case:- Compliance of the solemn order dated 10.02.2025 passed by the Hon'ble High Court, Calcutta in W.P.A. 18315 of 2024 (in the matter of Subhasis Mukherjee & Ors. Vs. The State of West Bengal & Ors)

| Serial No and Date of Order | Order and signature of Officer | Note and Action Taken on Order |
|-----------------------------|--|--------------------------------|
| <u>1</u> 04/04/2025 | <p>WHEREAS the Hon'ble High Court, Calcutta has been pleased to dispose of W.P.A. 18315 of 2024 (in the matter of Subhasis Mukherjee & Ors. Vs. The State of West Bengal & Ors) on 10.02.2025, <i>inter alia</i>, with the following solemn order:</p> <p><i>"7. In view of the above, the instant writ petition is disposed of by directing the Land Reforms Commissioner and the Additional Chief Secretary, Land and Land Reforms and Refugee Relief and Rehabilitation Department to consider the representation filed by the petitioners in accordance with the prevailing rules and thereafter take necessary consequential steps, if required.</i></p> <p><i>8. The aforesaid respondent is directed to afford an opportunity of hearing to the petitioners to ascertain the difficulties that they are facing so that relief may be provided to them.</i></p> <p><i>9. The aforesaid respondent shall take steps in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.</i></p> | |

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|--|--|--|
| | <p>10. A reasoned order shall be passed and communicated to the petitioners immediately thereafter.</p> <p>11. Learned advocate for the petitioners is directed to forward a copy of the representation of the petitioners to the aforesaid respondent at the time of communicating the order of the Court."</p> <p>AND WHEREAS a copy of the aforesaid solemn order, copy of the representations and writ petition have been forwarded to this end by the Ld. Advocate for the petitioner vide his letter dated 17.02.2025.</p> <p>AND WHEREAS following the doctrine of <i>audi alteram partem</i>, it is necessary to afford an opportunity of hearing to the petitioners so that such relief as may be reasonable and fair can be provided to them under the law.</p> <p>Hence, the petitioners are hereby asked to appear personally before the undersigned on 21.04.2025 at 12 noon for a hearing.</p> <div style="text-align: center;">  Land Reforms Commissioner & Additional Chief Secretary to the Government of West Bengal </div> | |
|--|--|--|



2
07/04/2025

The Notice sent vide memo no 1444(4)-
A&P/1M-02/2025 dated 07.04.2025 has been duly
served, and the service return showing proper
service of the notice, is kept with the case record.



Land Reforms Commissioner &
Additional Chief Secretary to the
Government of West Bengal

3
21/04/2025

The petitioners have appeared in person and file attendance.

Heard the petitioners at length. They reiterate their submission they have already made in the three representations dated 30.05.2024 which are at page 105 to 119 of the writ petition, as well as their representations dated 13.03.2025, 26.03.2025 and 21.04.2025. Their contentions are similar in nature and are summarized below:

1. The case of Sri Subhasis Mukherjee, petitioner no. 1, Assistant Director, WBLRS now posted at the office of the Additional District Magistrate & District Land & Land Reforms Officer, Purba Bardhaman is that when he was posted as BL&LRO Pandua, one mutation case being no. MN/2019/0604/3327 was disposed of under section 50 of the West Bengal Land Reforms Act, 1955 by one of his Revenue Officers in favour of one Md. Sekendar Ali S/o Lt. Md. Idris in respect of plot no. 157/819, 210, 406, 482, 673/895 of mouza Sialgodi, JL No. 70. Subsequently, a person namely Saukat Ali lodged one FIR in Pandua P.S. under section 420, 406, 468, 471 of Indian Penal Code, 1860 against said Md. Sekendar Ali which was registered as Pandua P.S. Case No. 45 of 2022 dated 26.01.2022. In the said FIR, the name of the petitioner no. 1 has been mentioned. At present, the case is pending before the Ld. Chief Judicial Magistrate, Hooghly as G.R. No. 220 of 2022. It is submitted by

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| | <p>petitioner no. 1 that though the said mutation case was not disposed of by him, he has been named in the FIR.</p> <p>2. The case of Sri Sunanda Roy, petitioner no. 2, Revenue Officer (WBSLRS Grade-I) posted at the office of the BL&LRO, Khanakul-I, Hooghly is that he was posted at the office of the BL&LRO Bardhaman-II, District-Purba Bardhaman as a Revenue Officer. One Biswajit Goswami filed two applications before the Ld. Chief Metropolitan Magistrate, Kolkata being CS/44/2020 and CS/45/2020 against him and also against the then BL&LRO Bardhaman-II praying for a direction under section 156(3) of Code of Criminal Procedure, 1973. Such applications were considered and rejected by the Ld. Metropolitan Magistrate on 17.08.2020. Thereafter, said Biswajit Goswami preferred two criminal revision applications being C.R.R. No. 1487 of 2020 and C.R.R. 1488 of 2020 challenging the order dated 17.08.2020 of the Ld. Metropolitan Magistrate. The Revisional applications were also dismissed by two separate orders dated 27.01.2021. But Biswajit Goswami filed another complain case before the Ld. Chief Metropolitan Magistrate, Kolkata under section 200 of Code of Criminal Procedure, 1973 against the petitioner no. 2 and the then BL&LRO Bardhaman-II on the same cause of action, which was registered as CS/34866/21. The said application was allowed by the Ld. Metropolitan Magistrate, 16th Court, Calcutta on 29.09.2021.</p> | |
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| | <p>On 28.10.2022, order was issued to proceed against the petitioner no. 2 under section 204 of Code of Criminal Procedure, 1973 in respect of the offences under section 420/34 of Indian Penal Code, 1860. On 24.11.2022, the petitioner no. 2 was granted bail. He submits that he is being harassed in this manner in spite of the statutory safeguards that grant him protection as a quasi-judicial authority. He also states that the applications before the Ld. Chief Metropolitan Magistrate involve proceedings under Chapter III (Bargadar) and Chapter VII (maintenance of Record-of-Rights) which are now under appeal before the statutory appellate authority.</p> <p>3. The case of Sri Supriya Pandey, petitioner no. 3, is that while he was discharging his functions as the Revenue Officer (WBSLRS Grade-I) in Old Malda Block, District-Malda, a mutation petition being no. MN/2021/0908/5538 under section 50 of the WBLR Act was allowed in that office in respect of plot no. 38 of mouza Sarbari, J.L. No. 98 in favour of one Prakash Thakur. As per him, the BL&LRO himself executed the said mutation case. He submits that later, by a statutory appeal case no. 426 of 2021, the order passed in said mutation case was set aside and the record-of-rights was restored to its earlier position. But the appellant namely Amaresh Dutta registered a criminal complaint, being Malda P.S. case No. 310 of 2021 dated 23.06.2021 wherein the petitioner no. 3 has been mentioned as accused</p> | |
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| | <p>though he neither initiated nor disposed of the impugned mutation case; and the criminal case is now pending before the Court of Ld. Chief Judicial Magistrate, Malda as G.R. 3262 of 2021.</p> <p>In each of the above three cases, the petitioners have been implicated in criminal proceedings by the complainants, ostensibly being aggrieved by the decisions passed by these officers in separate quasi-judicial proceedings.</p> <p><u>WHO THE PETITIONERS ARE:</u></p> <p>The petitioners are officers of the Department of Land & Land Reforms and Refugee Relief and Rehabilitation, vested with the power of adjudication and for passing orders under different Acts.</p> <p>The officers of the West Bengal Land Reforms Service namely Joint Directors, Deputy Directors, Assistant Directors as well as the officers in the rank of Special Revenue Officer Grade-II and Revenue Officer (West Bengal Subordinate Land Revenue Service Grade-I) are not only posted in the offices of the Block Land & Land Reforms Officer, Sub-Divisional Land & Land Reforms Officer and District Land & Land Reforms Officer but also in the Department of L&LR and RR&R, the Directorate of Land Records & Surveys, Land Acquisition wings of the Districts apart from the office of the 1st Land Acquisition Collector, Kolkata, Indo-Bangladesh Border Demarcation Office, Kolkata Khasmahal, office of the Controller- Kolkata Thika Tenancy and Howrah Thika Tenancy (now under Department of</p> | |
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| | <p>UDMA), office of the Rent Controller under West Bengal Premises Tenancy Act, office of the Competent Authority under the UL(C&R) Act to discharge their functions under the different land laws. The officers of this cadre also perform the role of Government Representative (G.R.) and Departmental Representative (D.R.) before the West Bengal Land Reforms & Tenancy Tribunal and West Bengal Administrative Tribunal respectively.</p> <p>Historically, the officers of this cadre have been vested with quasi-judicial power by law, for preparation of maps and record-of-rights under the Bengal Tenancy Act, 1885 (hereinafter the B.T. Act), the West Bengal Estates Acquisition Act, 1953 (hereinafter the WBEA Act) and the West Bengal Land Reforms Act, 1955 (hereinafter the WBLR Act). They also discharge quasi-judicial functions to vest the ceiling-surplus land under the WBEA Act and WBLR Act, and also play a key role in the redistributive land reforms schemes under Article 39(b) and 39(c) of the Constitution of India and codified under section 1A of the WBLR Act, 1955. They are the primary authority to decide issues related to barga cultivation and to settle disputes between land owners and bargadars. Senior officers of this cadre like Deputy DL&LROs and SDL&LROs are empowered to hear statutory appeals under the WBLR Act. They also discharge quasi-judicial functions under the Mines & Mineral (Development & Regulation) Act, 1957 and the Rules made thereunder.</p> | |
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| | <p><u>THE CONCEPT OF A QUASI-JUDICIAL AUTHORITY:</u></p> <p>The term 'quasi-judicial authority' needs to be understood by all, especially the field functionaries of the law enforcement agencies such as the Police.</p> <p>In the matter of India National Congress (I) Vs. Institute of Social Welfare & Ors reported in (2002) 5 SCC 685, Hon'ble Supreme Court of India was pleased to observe that the dictionary meaning of the word quasi is "not exactly" and it falls in between a judicial and administrative function. In many cases, statutory authorities have been held to be quasi-judicial authorities, and decisions rendered by them regarded as quasi-judicial, where there was a contest between two contending parties and the statutory authority was required to adjudicate upon the rights of the parties. In Cooper vs. Wilson (1937) 2 KB 309, it was held that "the definition of a quasi-judicial decision clearly suggests that there must be two or more contending parties and an outside authority to decide those disputes".</p> <p>In view of the aforesaid position of law, it is crystal clear that where there are two or more parties contesting each other's claims and the statutory authority is required by law/statute/rules to adjudicate the rival claims through prescribed/laid-down procedure under the law, such a statutory authority is held to be quasi-judicial authority and the decision rendered by it is a quasi-judicial order.</p> | |
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| | <p>The petitioners, while discharging their functions as quasi-judicial authorities under different Acts, are required to give an opportunity of hearing to the concerned parties by issuing notice, record memorandum or proceedings of the case and pass a reasoned order in writing. To facilitate them to function as quasi-judicial authorities, they are vested with certain powers meant for the courts of law. For example, under section 57 of the WBLR Act, it has been provided that: "Subject to the provisions of this Act and any rules made thereunder, any officer in dealing with proceedings under this Act shall exercise the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of—</p> <ul style="list-style-type: none"> (a) summoning and enforcing the attendance of any person and examining him on oath as a witness, (b) requiring the discovery and production of any document or record, (c) receiving evidence on affidavits, (d) requisitioning any public record or copy thereof from any Court or office, (e) issuing commission for the examination of witnesses or documents, (f) enforcing or executing orders including an order for restoration of possession as if such orders were decrees of a Civil Court, and (g) remanding any case or proceedings to the officer from whose decree the appeal is preferred, and such officer shall record the substance of the evidence, if any, taken by him." <p>Further, under section 57A of the WBEA Act and</p> | |
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| | <p>section 57A of the WBLR Act, State Government reserves the authority to vest other powers on these officers available to Ld. Civil Courts by publishing an order in the <i>Official Gazette</i>.</p> <p>It is significant that even the jurisdiction of Civil Courts is ousted in certain matters in the first instance, and exclusive jurisdiction has been cast upon the officers of this cadre for adjudication. Section 57B of the WBEA Act, section 21(1), section 14X, section 51C of the WBLR Act, section 21 of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001 are some instances of this. So these officers, in the discharge of specific functions under the laws/statutes/rules mentioned above, satisfy the definition of a quasi-judicial authority in all respects.</p> <p>The Courts have recognized this immunity to the quasi-judicial authority in several judicial pronouncements. Very recently, in the matter of Kailash Bundela Vs The State of Madhya Pradesh & Ors, (reported in 2024 SCC OnLine MP 7358), the Madhya Pradesh High Court has been pleased to recognize the applicability of Judges (Protection) Act, 1985 to quasi-judicial authorities. The same ratio has been laid down by Hon'ble High Court of Chattishgarh in the matter of Rajkumar Tamboli Vs. State of Chattishgarh, in the Station House Officer & Another reported in 2024 SCC Online Chh 3651.</p> <p>The tenancy laws of undivided Bengal and the present-day West Bengal, lay down specific</p> | |
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| | <p>provisions for the protection of quasi-judicial authorities from any suit, prosecution or other legal proceedings. It is necessary to mention some of these provisions here:</p> <p><u>Section 195A of the Bengal Tenancy Act, 1885</u> lays down that "no suit for other proceedings shall be instituted against the Government or against any officer of the Government in respect of anything done by the registering officer, the Collector or the Court in regard to the receiving, distribution or payment of the landlord's fee or the landlord's transfer fee."</p> <p><u>Section 58 of the West Bengal Estates Acquisition Act, 1953</u> provides that:</p> <p>"(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.</p> <p>(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or any rules made thereunder or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder."</p> <p><u>Section 58 of the West Bengal Land Reforms Act, 1955</u> lays down that - "(1) No suit, prosecution or</p> | |
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| | <p>other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.</p> <p>(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder."</p> <p><u>Section 22 of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001</u> also lays down the similar provision that: "No suit, prosecution or other legal proceedings whatsoever shall lie against any person for anything in good faith done or intended to be done under this Act".</p> <p><u>Section 41 of the West Bengal Premises Tenancy Act, 1997</u> provides that "no suit, prosecution or other legal proceeding shall lie against any officer of the Government for anything good faith done or intended to be done under this Act or the Rules made thereunder."</p> <p><u>Section 27 of the Mines & Minerals (Development & Regulation) Act, 1957</u> – "No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act."</p> | |
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| | <p>In CRR No. 1487 of 2020 and CRR No. 1488 of 2020, Hon'ble Calcutta High Court was pleased to observe that: <i>"Upon reading the non-obstante clause, engrafted in Section 58 of the West Bengal Land Reforms Act, 1955, thereby providing immunity to the public officers like O.P. No.1 and O.P No.2 from legal proceedings, against the discharge of public functions in good faith under the Act referred to above, there is strong force in the submission of Mr. Mondal. The Court is not persuaded by the submission of Mr. Dutta that prohibition clause of Section 58 of the Act conferring immunity from prosecution attached to officials of L.R. Department is without any significance. Learned Magistrate was thus statutorily prohibited to proceed with a complaint, alleging illegality therein in the official discharge of the duties, entrusted to O.P. No.1 and O.P. No.2 under the W.B.L.R. Act, 1955."</i></p> <p>This obviously raises the question: What legal remedy or redress is available to a person if he is dissatisfied or aggrieved by an order of a quasi-judicial authority?</p> <p>The answer is provided by the remedial measures specified in the respective Acts in the form of appeal and/or review before the appropriate forum. For example, under section 54 of the WBLR Act there is a general provision of appeal before the Collector against an order passed by the Revenue Officer or a revenue authority below the rank of a Collector. Also, there are special provisions of appeal under section 4(2)(c), section 4A(3), section 14O, section</p> | |
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| | <p>14T(7), section 19, section 19B(2), section 49(4), section 51A(5) etc. The procedure for filing such appeal too is rather simple. Furthermore, the State Government has the power under section 54(5) of the WBLR Act to correct on its own motion or on the basis of a representation/complaint received, any erroneous decision passed by a Revenue Officer or any other officer.</p> <p>In the recent past, many incidents have been reported of fake deeds/forged death certificates being submitted before the Revenue Officers, which appear to have been acted upon by these officers in good faith. To plug such malpractices, this Department has issued Order No. 213-1S/10/2020 dated 17.01.2020 with clear instructions to, <i>inter alia</i>, cancel the mutation proceedings, restore the record-of-rights to its earlier position through a proceeding under section 50(1)(f) of the WBLR Act even where no statutory appeal has been filed. The said order also instructs the BL&LRO to lodge FIR in cases where forged documents have been submitted by any person.</p> <p><u>THE CONCEPT OF GOOD FAITH:</u></p> <p>The definition of 'good faith' is not provided under the WBEA Act or the WBLR Act.</p> <p>Section 3(22) in the General Clauses Act, 1897 provides that a thing shall be deemed to be done in good faith where it is in fact done honestly, whether it is done negligently or not.</p> | |
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| | <p>Under section 2(11) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter the BNS), nothing is said to be done or believed in "good faith" which is done or believed without due care and attention. This is similar to the erstwhile section 52 of Indian Penal Code.</p> <p>While the BNS doesn't provide specific illustrations for "good faith" in Section 2(11), the concept is extensively applied throughout the legal framework, particularly in relation to General Exceptions (Chapter III) of the BNS. These exceptions outline situations where an act, though technically fulfilling the elements of an offence, might be excused or justified due to factors like mistake, necessity, or good faith.</p> <p>For example: Section 14 of the BNS exempts an act done by a person who is bound by law to do it or who, due to a mistake of fact and not law, believes in good faith that they are bound to do it. This implies that an honest and reasonable mistake in the discharge of one's legal obligations can negate criminal liability.</p> <p>Section 15 of the BNS protects judges acting judicially, provided they exercise power granted by law or act in good faith believing they have such power. This ensures independence and allows the officials to make decisions without fear of prosecution, as long as they act reasonably and honestly.</p> | |
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| | <p>Sections 17, 19, 26, 27, 30, 31, 33, and 37 of the BNS repeatedly invoke the concept of "good faith" in various contexts, including acts justified by law, acts done to prevent harm, acts done for the benefit of others, communications made for another's benefit, and acts done in private defence. In all these scenarios, the presence of "good faith" signifies that the person acted reasonably, honestly, and without malicious intent.</p> <p>It is undisputed that the cadre to which the petitioners belong, besides being quasi-judicial authorities while discharging specific duties under the different laws, are also 'public servants', and as such also qualify for protection under the law. Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter, the BNSS) provides protection to public servants.</p> <p><u>218. Prosecution of Judges and Public Servants.</u> (1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013- (a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government; (b) in the case of a person who is employed or, as</p> | |
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| | <p>the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:</p> <p>Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted:</p> <p>Provided further that such Government shall take a decision within a period of one hundred and twenty days from the date of the receipt of the request for sanction and in case it fails to do so, the sanction shall be deemed to have been accorded by such Government:</p> <p>Provided also that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 64, section 65, section 66, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79, section 143, section 199 or section 200 of the Bharatiya Nyaya Sanhita, 2023.</p> <p><u>Section 17A of the Prevention of Corruption Act, 1988</u> lays down that:</p> <p>(1) No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such</p> | |
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| | <p>public servant in discharge of his official functions or duties, without the previous approval— (a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government; (b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government; (c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:</p> <p>Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:</p> <p>Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.”</p> <p>(emphasis added)</p> <p>In <i>Suneeti Toteja Vs. State of UP & Ors.</i> (2025 SCC Online SC 43- Paragraph 24 to 29), Hon’ble Supreme Court has laid down the law that “it is only to be seen if the accused public servant was acting in the performance of his/her official duties, and if the answer is in the affirmative, then prior sanction for their prosecution is a condition precedent to the cognizance of the cases against them by the courts.”</p> | |
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| | <p>Now, the question arises: if an official exercising his functions as a quasi-judicial authority acts in a mala fide manner, what is the course available to hold him accountable for his actions?</p> <p>Clearly, any official misusing his quasi-judicial powers will need to be dealt with, and a blanket protection or "complete immunity" sought by the petitioners herein cannot be granted. In this backdrop, there are several systems in place to ensure good and accountable conduct from Government employees. WBLRS officers are Government employees, and the duties and obligations of a Government employee have been laid down in West Bengal Services (Duties, Rights and Obligations of the Government Employees) Rules, 1980 [WBDRO Rules]. Rule 9 of the WBDRO Rules states that "Any violation or infringement of these rules shall be deemed, to be a good and sufficient reason within the meaning of rule 8 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, for imposing penalties."</p> <p>The penalties provided under these rules are:</p> <ul style="list-style-type: none"> i) censure; ii) withholding of increments or promotions; iii) recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of order; iv) reduction to lower stage in the time-scale of pay for a specified period with further direction as to whether or not the Government servant will earn increments of pay during the period of | |
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| | <p>such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay;</p> <p>v) reduction to a lower time scale of pay grade, post or service which shall ordinarily be a bar to the promotion of the Government employee.</p> <p>For any violation of provisions of the WBDRO Rules, method of inquiry and imposition of penalty vide disciplinary proceeding under Rules 8 to 11 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 [WBSCCA Rules]. Rule 7 of the WBSCCA Rules deals with provisions of suspension.</p> <p>Detailed procedures in the matters of dismissal, removal and suspension are laid down in Chapter IX, Rule 70 to 74A, of the West Bengal Service Rules, Part I.</p> <p>So, when gross misuse of power or total non-adherence to the law by a quasi-judicial authority comes to light, there are ample provisions for penalty against him in the service rules of the State Government. This is in addition to the fact that where a quasi-judicial authority has passed an order, that can be corrected through the process of appeal.</p> <p>In the instant matter, the actions/proceedings for which the Petitioners have been implicated are either simple mutation cases under section 50 of the WBLR Act (which is appealable under section 54 of the said Act before the Collector), or proceedings</p> | |
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| | <p>under Chapter III of the WBLR Act (which is also appealable before the Collector under the said Act). If a person is aggrieved with the decision of appellate authority too, then there is a Specified Tribunal constituted under Article 323B of the Constitution of India, namely The West Bengal Land Reforms & Tenancy Tribunal having the writ jurisdiction of a High Court in dealing with cases under land laws which are called Specified Acts under section 2(r) of the West Bengal Land Reforms & Tenancy Tribunal Act, 1997, and the WBLR Act is one of such Specified Acts.</p> <p>So, after traversing the provisions of the relevant Acts and Rules, and having seen the actions of the officials in their quasi-judicial capacity, the undersigned is of opinion that criminal proceedings against the officials may be resorted to only after due application of mind at the level of senior/supervisory officers. The police/ enforcement agencies are required to seek prior sanction from the State Government before filing a charge sheet in the Court (section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023). This mechanism provides a layer of due diligence and also serve as a check on any harassment of WBLRS officers for actions taken by them in the discharge of their official duties as quasi-judicial authorities. Indiscriminate resort to police/criminal action against these officials by aggrieved parties may create an atmosphere of fear, lowering of morale and militate against the discharge of their statutory duties in a fair and independent manner.</p> | |
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| | <p>The checks being discussed here must not be misinterpreted as an attempt to shield any irregularity or official misconduct by any official. The law of the land applies to one and all. In a case where a public official has exercised his powers in a blatantly coloured manner, where a mala fide is prima facie evident leading to a miscarriage of justice, no immunity can be claimed by an official from legal action.</p> <p>It deserves to be put on record that this Department has directed the filing of FIR in several instances against its own field officers/staff after it was satisfied, <i>prima facie</i>, that an official had acted in a <i>mala fide</i> manner, which required to be dealt with not only under the Disciplinary Rules but also under the criminal law of the country. This Department has also takes exemplary disciplinary action against officials found to be guilty of misconduct. These are a matter of record.</p> <p>To prevent an indiscriminate resort to criminal proceedings against these officers by aggrieved applicants/ members of the public, and to ensure there are sufficient checks and balances to prevent unnecessary harassment of field officers, some guidelines could be laid down.</p> <p>1. As explained above, the State Government is the final authority to grant sanction for prosecution in a Court of Law in respect of government officials, and this function needs to be discharged with due seriousness, to provide due protection that the law affords to public servants</p> | |
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| | <p>or government employees.</p> <p>2. To ensure that the officers of the Court such as the Ld. Public Prosecutors/Assistant Public Prosecutors are familiarized with the protection provided to WBLRS officials discharging their functions in a quasi-judicial capacity, including the provisions of S. 197 Cr. PC and/or S. 218 of BNSS, the DM and ADM&DL&LRO may interact with the Ld. GP and Ld. PP at regular intervals.</p> <p>3. Police officers specially SIs, ASIs also need to be made aware of (i) the roles and functions of the land administration, (ii) the hierarchy of officials and (iii) the protection granted by the different laws to officials exercising their functions in a quasi-judicial capacity.</p> <p>4. Also, while investigating a complaint, it will help considerably if the investigating officer seeks a factual report from supervisory officers (such as BL&LRO/SDL&LRO/DL&LRO). This will quickly bring out the factual matrix based on the records; as in many instances, complaints have been made against an official who had no role to play in the matter.</p> <p>5. The ADM & DL&LROs, in consultation with the DMs, should conduct public awareness drives highlighting the remedial measures/ appellate provisions provided under the law. Citizens also need to be made aware about the convenience of online system of applying mutation, conversion,</p> | |
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getting certified copy etc. through *banglarbhum* portal, without involving any middleman or extraneous influence.

This Order is passed in compliance of the orders of the Hon'ble High Court at Calcutta.

Let a plain copy of this order be supplied to the petitioners under proper receipt.

Let a copy of this order be circulated to all the District Magistrates & Collectors, the District Land & Land Reforms Officers, and all others concerned.



(VIVEK KUMAR, IAS)
Land Reforms Commissioner &
Additional Chief Secretary to the
Government of West Bengal