

ITEM NO.23

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Criminal) No.295/2024

XXX

Petitioner(s)

VERSUS

THE STATE OF WEST BENGAL

Respondent(s)

(With IA No.147220/2024-EXEMPTION FROM FILING O.T.)

Date : 19-07-2024 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
Mr. Udayaditya Banerjee, AOR
Ms. Shubhangi Pandey, Adv.
Mr. Arpith Varaprasad, Adv.

For Respondent(s) Ms. Astha Sharma, Adv.
Mr. Sanjeev Kaushik, Adv.

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

- 1 Mr Shyam Divan, senior counsel appearing on behalf of the petitioner has adverted to the reliefs which have been sought in prayer clauses 'c' and 'd' of the petition under Article 32 of the Constitution which are reproduced below:

“(c) Issue writ/writs including a writ in the nature of Mandamus or any other appropriate writ, mandating the State of West Bengal through State Police machinery to carry out investigation, including the right of the State Police to record the statement of the Hon’ble Governor by the police in connection with investigation of a crime, if it is so essential;

(d) Frame guidelines and qualification to the extent the immunity given under Article 361 can be exercised by the office of Hon’ble Governor.”

- 2 The petition raises issues pertaining to the ambit of the protection which is afforded, *inter alia*, to the Governor under clause (2) of Article 361 of the Constitution, according to which, “no criminal proceedings whatsoever shall be instituted or continued against the .. Governor of a State, in any court during his term of office”. The interpretation of clause (2) arises for determination, more particularly, when criminal proceedings would be construed to have been “**instituted**”.
- 3 Liberty is granted to implead the Union of India as a party to these proceedings. Amendment to be carried out during the course of the day.
- 4 Issue notice, returnable in three weeks.
- 5 Ms Astha Sharma, counsel appears on behalf of the State of West Bengal and accepts notice.
- 6 We request the Attorney General for India to assist the Court.
- 7 List the Petition on 12 August 2024.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar