

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

The Hon'ble Justice Sabyasachi Bhattacharyya

WPA No. 10457 of 2020

Anup Majee

Vs.

Union of India and others

For the petitioner : Mr. Farooq A. Razzak,
Mr. Monoj Malhotra,
Mr. Sabir Ahmed,
Mr. Subir Farrok,
Mr. Abdur Rakib,
Mr. Shraman Sarkar,
Mr. Apan Saha

For the Union of India : Mr. Phiroze Edulji,
Mr. Debu Chowdhury

For CBI : Mr. Y.J. Dastoor,
Mr. Samrat Goswami

For the State : Mr. Kishore Dutta,
Mr. Abhratosh Majumder,
Mr. Subhabrata Datta,
Mr. Debashis Sarkar

Hearing concluded on : 27.01.2021

Judgment on : 03.02.2021

Sabyasachi Bhattacharyya, J:-

1. The petitioner is a director of a company named Mark Enclave Private Limited, which is engaged in the business of purchase and sale of coal. In the course of its business, the petitioner's company purchased coal from various organisations, including the Eastern Coalfield Limited (ECL).

- 2.** The Central Bureau of Investigation (CBI), respondent no.2 herein, started investigation on the basis of FIR No. RC 0102020A0022 dated November 27, 2020. As per the FIR, the suspected offence was criminal conspiracy, criminal breach of trust by public servants and criminal misconduct by public servants by dishonestly or fraudulently misappropriating the property entrusted to them or any property under their control as public servants or allowing other persons to do so. The FIR specified the place of occurrence of the offence as leasehold area of ECL under Kunustoria, Kajora area, District West Burdwan, corresponding Railway Sidings and other places. The petitioner was one of the accused persons named in the FIR.
- 3.** Learned counsel for the petitioner challenges the FIR on several grounds. It is submitted that the consent given by the State of West Bengal under Section 6 of the Delhi Special Police Establishment Act, 1946 (hereinafter referred to as “the 1946 Act”) on August 2, 1989, was withdrawn vide a subsequent Notification dated November 16, 2018 published in the Official Gazette. It is submitted that the extension of powers and jurisdiction of the CBI to any area (including Railway areas) in a State, granted by the Central Government under Section 5, is subject to consent of the concerned State Government under Section 6 of the 1946 Act. Thus, in view of the withdrawal of such consent by the State of West Bengal, the CBI had no authority to register FIR and conduct investigation pursuant to the same within West Bengal.

4. Secondly, it is argued, even it is assumed for argument's sake that Railway areas are exempt from the purview of the State's consent under Section 6, the FIR disclosed the place of occurrence primarily to be the ECL area pertaining to coal mines and could not occasion any investigation in Railway areas.
5. Learned Counsel for the petitioner argues that the petitioner's company has been engaged in legal purchase and sale of coal. Several documents, annexed to the writ petition, are relied on to indicate that the petitioner's company participated in legal e-auctions and made valid purchases of coal, obviating the scope of any illegal activity on the part of the petitioner on that score.
6. It is submitted that 'Railway area', as mentioned in Sections 5 and 6 of the 1946 Act, has not been defined in the said Act. As such, the withdrawal of consent by the State of West Bengal denuded the CBI of any authority to conduct investigation within the territory of West Bengal, including Railway areas.
7. It is further argued that the initial extension of jurisdiction by the Central Government, vide order dated February 18, 1963, only mentioned 'West Bengal', thus excluding Railway areas. For conferment of such power on the CBI in terms of Section 5 of the 1946 Act, it is argued, Railway areas, if intended to be covered, have to be specifically mentioned in the order of conferment of jurisdiction. In the absence of such mention in the original order of extension of powers,

the CBI has no authority to continue their investigation on the basis of the impugned FIR.

- 8.** Placing reliance on *Kazi Lhendup Dorji vs. Central Bureau of Investigation and others*, reported at 1994 Supp (2) SCC 116, learned counsel for the petitioner submits that an order revoking consent under Section 6 of the 1946 Act can only have prospective operation. However, in the present case, the FIR was registered subsequent to the withdrawal of consent by the State of West Bengal and was thus illegal.
- 9.** It is further argued that the place of occurrence, as mentioned in the FIR, is the leasehold area of the ECL, which does not fall within the contemplation of Section 2(31) of the Railways Act, 1989 (hereinafter referred to as “the 1989 Act”), which defines “Railway” and thus may be considered as a reference point for ascertaining the area covered by the Railways. It is additionally argued that the 1989 Act pertains to revenue and does not contemplate any investigation as such.
- 10.** Learned Advocate General, appearing for the State-respondent, argues that the Railways Act, 1989 (hereinafter referred to as “the 1989 Act”) is a complete Code by itself and covers Railway offences. As such, it is argued that the CBI has no authority to investigate in Railway areas, in the absence of any consent by the State Government in that regard.
- 11.** The allegations in the FIR relate to coal mining in mine areas, which are beyond Railway areas. As such, the conduct of investigation by the CBI for such offence, in Railway areas, is *de hors* the law.

- 12.** Learned Advocate General contends that, in view of the withdrawal of consent under Section 6 of the 1946 Act by the State of West Bengal, the CBI has no authority to continue investigation in West Bengal, unless a fresh extension is granted by the Central Government with the consent of the State Government of West Bengal.
- 13.** It is further argued by the learned Advocate General that the Railway Protection Force Act, 1957 (hereinafter referred to as “the 1957 Act”), another statute governing railway property, was enacted to provide for the constitution and regulation of an armed force of the Union for the better protection and security of Railway property, passenger area and passengers and for matters connected therewith. In view of the constitution of a separate force, namely the Railway Protection Force, for such purpose, the CBI has no authority to investigate in any Railway area for offences relating to Railway property. In the present case, it is submitted, even if it is assumed that the allegations in the impugned FIR partially relate to the transport of stolen coal via railway tracks, the 1957 Act and connected Rules of 1987 provide sufficiently for conduct of investigations into such matters by the Railway Protection Force. The 1957 Act and the 1989 Act being special statutes with regard to Railway areas, the CBI has no jurisdiction to conduct such investigations.
- 14.** In any event, it is argued that the present investigation is in connection with illegal mining of coal, which can only take place in coal mines and not in Railway areas. It is submitted that Section

2(32A) of the 1989 Act describes “Railway land” as any land in which a Government Railway has any right, title or interest.

- 15.** On the other hand, “Railway property” has been defined in Section 2(e) of the 1957 Act to include any goods, money or valuable security, or animal, belonging to, or in the charge or possession of, a Railway administration.
- 16.** None of the above definitions cover mine areas, to which the impugned investigation pertains.
- 17.** By relying on Rule 222.1 of the 1987 Rules, learned Advocate General argues that comprehensive provision has been made therein for investigation being conducted by the authorities prescribed in the Rules. The CBI is not one of such authorities. It is thus argued that even if, arguably, stolen coal was being transported by booking a consignment, it became ‘Railway property’, as defined in Section 2(e) of the 1957 Act. Thus, it is the Railway Protection Force which has the authority to investigate into any matter of theft, pilferage, etc., of such goods and not the CBI.
- 18.** The learned Advocate General next relies on the definition of “consignor”, as given in Section 2(10) of the 1989 Act, which means a person, named in a Railway receipt as consignor, by whom or on whose behalf the goods covered by the Railway receipt are entrusted to a Railway administration for carriage. Sub-section (8) of Section 2 defines “consignee” as a person named as consignee in a Railway receipt and sub-section (9) thereof defines “consignment” as goods

entrusted to a Railway administration for carriage. Thus, goods carried by the Railways falls within the purview of the 1989 Act, which is a self-contained Code and provides for remedies relating thereto.

- 19.** The learned Advocate General relies on *State of West Bengal and others vs. Committee for Protection of Democratic Rights, West Bengal and others*, reported at (2010) 3 SCC 571, wherein it was held that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, for the CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. However, the Supreme Court observed that, despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the courts must bear in mind certain self-imposed limitations on the exercise of such powers. The very plentitude of the power under the said Articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised, time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. The extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident

may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and, with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.

- 20.** Learned Advocate General next cites *State of West Bengal and others vs. Sampat Lal and others*, reported at (1985) 1 SCC 317, where the question as to appointment of the DIG, CBI to enquire into a matter in the absence of proper consent of the State Government was canvassed before the Supreme Court and it was accepted by counsel for all the parties, including the Additional Solicitor-General, that while Section 6 of the 1946 Act would require the consent of the State Government before jurisdiction under Section 5 of the Act is exercised by Officers of that Establishment, when a direction is given by the court in an appropriate case, the consent envisaged under Section 6 of the Act would not be a condition precedent to compliance with the court's direction. The Supreme Court observed in the said report that, in its considered opinion, Section 6 of the Act does not apply when the court gives a direction to the CBI to conduct an investigation and counsel for the parties rightly did not dispute the position.
- 21.** The learned Advocate General next relies on *M. Balakrishna Reddy vs. Director, Central Bureau of Investigation, New Delhi*, reported at (2008) 4 SCC 409, wherein the Supreme Court held that a plain reading of

the provisions of the 1946 Act goes to show that for exercise of jurisdiction by CBI in a State (other than Union Territory or Railway area), consent of the State Government is necessary. In other words, it was held, before the provisions of the 1946 Act are invoked to exercise power and jurisdiction by the Delhi Special Police Establishment in any State, the following conditions must be fulfilled:

- (i) A Notification must be issued by the Central Government specifying the offences to be investigated by Delhi Special Police Establishment (Section 3);
- (ii) An order must be passed by the Central Government extending the powers and jurisdiction of the Delhi Special Police Establishment to any State in respect of the offences specified under Section 3 (Section 5); and
- (iii) Consent of the State Government must be obtained for the exercise of powers by Delhi Special Police Establishment in the State (Section 6).

22. It was also held that it depends on the facts of each case whether the consent required by Section 6 of the 1946 Act has or has not been given by the State Government and no rule of universal application can be laid down.

23. The learned Advocate General, referring to the preamble of the 1957 Act, submits that the said Act provides for the constitution and regulation of an Armed Force for the Union for the better protection

and security of Railway property, passenger area and passengers and for matters connected therewith. It is argued that Rule 35.4 of the 1987 Rules casts responsibility upon the Principal Chief Security Commissioner to provide in his jurisdiction better protection and security to Railway property and deal with all matters connected therewith and to perform the functions stipulated therein, which pertain to dissemination of crime and special intelligence affecting the security and functioning of the Railways, theft, pilferage, losses and shortages etc. The said Rule, read with Rule 222.1 as discussed above, confer ample power on the Railway authorities to deal with crimes and investigation thereof in Railway areas. That apart, Rule 41.1(a) empowers enrolled members of the Force to protect and safeguard Railway property and to combat crime against it, thereby leaving no scope for the CBI to deal with such cases.

- 24.** In reply, learned Additional Solicitor-General, appearing for the CBI, submits that Section 5 of the 1946 Act was invoked in the present case to extend the powers of the CBI to investigate cases of national importance, spread over several States of India. Rampant illegal mining and theft of coal in several States, including West Bengal, and the Railway areas and mines falling within such States prompted the extension of the powers of CBI to look into those matters. It is argued that Entry No. 80 of List I of the Seventh Schedule of the Constitution mentions under the Union List the extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State

to exercise powers and jurisdiction of any area outside that State without the consent of the Government of the State in which such area is situated; extensions of the powers and jurisdiction of members of a police force belonging to any State to Railway areas outside that State. As such, Railway areas have been carved out as an exception to the fetter of consent of the concerned State.

25. In the present case, seizures were made by the Security Force of the ECL in the first place, who conducted the preliminary enquiry into the matter. The CBI had no role to play till the First Information Report (FIR) was lodged after such preliminary enquiry. Placing certain portions of the FIR, the learned Additional Solicitor-General argues that the coal theft-in-question was also being carried on at Railway Sidings, as evident from the FIR itself.
26. Learned counsel for the petitioner, at this juncture, places reliance on *Fertico Marketing and Investment Pvt. Ltd. and others vs. Central Bureau of Investigation and another*, reported at 2020 SCC OnLine SC 938. In the said case, a previous judgment of *Kanwal Tanuj vs. State of Bihar and others* reported at 2020 SCC OnLine SC 395 was referred to, wherein the question arose as to whether when an offence was committed in the Union Territory and one of the accused was residing/employed in some other State outside the said Union Territory, the members of the DSPE had power to investigate the same, unless there was a specific consent given by the concerned State under Section 6 of the 1946 Act. The contention on behalf of the

appellant before the High Court was that since the appellant was employed in connection with the affairs of the Government of Bihar, an investigation was not permissible, unless there was a specific consent of the State of Bihar under Section 6 of the said Act. The Supreme Court rejected such contention, holding that if the offence is committed in Delhi, merely because the investigation of the said offence incidentally transcends to the Territory of the State of Bihar, it cannot be held that the investigation against an Officer employed in the Territory of Bihar cannot be permitted unless there was specific consent under Section 6 of the 1946 Act. In any event, the Supreme Court held that the respondent-State having granted general consent in terms of Section 6 of the Act, it was not open to the State to argue to the contrary. It is thus argued by the petitioner that in the present case such general consent was withdrawn by the State. As such, the CBI had no authority to investigate or interrogate persons within the territory of the State of West Bengal.

- 27.** Learned Additional Solicitor-General, in reply, submits that *Fertico Marketing (supra)* clearly empowers the CBI to investigate and interrogate persons outside the Union Territory if the case originated within the Union Territory. In the present case, since the FIR was lodged in connection with railway sidings as well, the CBI has full authority to interrogate persons and investigate even outside the Railway areas, irrespective of the consent of the State.

- 28.** It is argued that the initial conferment of power under Section 5 of the 1946 Act covered the entire State of West Bengal, including the Railway areas. The subsequent withdrawal of consent by the State could not operate in respect of Railway areas. It is unimaginable, it is contended, that an agency conducting investigation in the Railway areas on the basis of an FIR, if necessary for the purpose of investigation, cannot interrogate persons or continue investigation in other areas as well, in connection with such FIR. The CBI has been empowered to investigate the rampant coal mining offences spread over various States, including West Bengal; thus, the said agency can very well go into any area within the State of West Bengal for the ancillary purpose of investigation into connected matters, irrespective of Section 6 of the 1946 Act.
- 29.** Upon considering the materials and hearing the contesting parties, the question which acquires relevance in the present case is whether the CBI has jurisdiction to investigate in the State of West Bengal by virtue of its initial conferment of power by the Central Government Notification dated February 18, 1963, in view of the consent under Section 6 of the 1946 Act, granted by the State of West Bengal on August 2, 1989, having been withdrawn subsequently by a Notification dated November 16, 2018.
- 30.** Despite the arguments of the learned Advocate General to the tune that the 1957 and 1989 Acts are self-contained Codes and preclude the powers of the police and the CBI to investigate into matters falling

within the Railway areas, such argument is rather irrelevant for the present context. The 1989 Act clearly pertains to revenue earned by the Railway administration and consequent compensation for loss, damage, etc. of goods being transported by the Railways. The expression "Railway land" as defined in Section 2(32A) of the 1989 Act merely mentions any land in which a Government Railway has any right, title or interest.

- 31.** The 1957 Act, on the other hand, pertains to Railway offences, that is, offences relating to "Railway property" which expression, as per Section 2(e) of the 1957 Act, includes goods, money or valuable security etc. belonging to or in charge or possession of a Railway administration. The said Act was enacted for constitution and regulation of an Armed Force for the limited purpose of better protection and security of Railway property, passenger area and passengers. In the present case, the offence on which the impugned FIR was lodged relates to illegalities regarding coal mining and corruption related thereto. As such, the genesis of the alleged offence does not fall within the purview of either the 1957 or the 1987 Act. Thus, the argument that the Railway Protection Force or the Railway authorities have sufficient powers to deal with Railway properties, is not valid for the present purpose.
- 32.** The offence in the present case relates to coal mining and theft of coal and not any offence to Railway properties, as envisaged under the 1957 and 1989 Acts or the connected Rules. Therefore, there is no bar

within the periphery of the said Acts, for the CBI to conduct the present investigation.

- 33.** As far as the 1946 Act is concerned, no definition of “Railway area” is given therein. As such, contemporaneous extant statutes which pertain to Railway areas ought to be looked into for the purpose of ascertaining the purport of the expression. The definition of “Railway property” in Section 2(e) of the 1957 Act and of “Railway land” in Section 2(32A) of the 1989 Act do not provide ample clarity on the exact nature of areas covered by the expression “Railway area”. Thus, it is necessary to look into the definition closest in meaning to Railway area as used in the 1946 Act.
- 34.** For such purpose, the closest in proximity and most comprehensive description is the definition of “Railway” given in Section 2(31) of the 1989 Act. The said definition is quoted hereinbelow:

“The Railways Act, 1989:-

Section 2(31): *“railway” means railway, or any portion of a railway, for the public carriage of passengers or goods, and includes –*

- (a) all lands within the fences or other boundary marks indicating the limits of the land appurtenant to a railway;*
- (b) all lines of rails, sidings, or yards, or branches used for the purposes of, or in connection with, a railway;*
- (c) all electric traction equipments, power supply and distribution installations used for the purposes of, or in connection with a railway;*
- (d) all rolling stock, stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery, roads and streets, running rooms, rest houses, institutes, hospitals, water*

works and water supply installations staff dwellings and any other works constructed for the purpose of or in connection with railway;

(e) all vehicles which are used on any road for the purposes of traffic of a railway and owned, hired or worked by a railway; and

(f) all ferries, ships, boats and rafts which are used on any canal, river, lake or other navigable inland waters for the purposes of the traffic of a railway and owned, hired or worked by a railway administration,

but does not include –

(i) a tramway wholly within a municipal area; and

(ii) lines of rails built in any exhibition ground, fair, park or any other place solely for the purpose of recreation;”

35. Thus, it is seen that all conceivable areas covered by the Railways, including rails, sidings, yards or branches used for the purposes of or in connection with Railway, fall within the periphery of Railway area. In the absence of any apt alternative, such definition has to be borrowed for the purpose of defining Railway area as contemplated in the 1946 Act.

36. The initial order issued by the Government of India, Ministry of Home Affairs on February 18, 1963 extended the powers and jurisdiction of members of Delhi Special Police Establishment under sub-section (1) of Section 5 of the 1946 Act to several States, including West Bengal, for the investigation of offences specified in the Schedule annexed thereto.

37. The language used in Section 5(1) of the 1946 Act is the Central Government “may by order extend to any area (including Railway

areas), in a State, not being a Union Territory the powers and jurisdiction of members of the Delhi Special Police Establishment for the investigation of any offences or classes of offences specified in a Notification under Section 3”. Thus, an order extending such powers need not separately stipulate Railway areas for the purpose of extension of powers. The mention of the concerned State (in the present case West Bengal) in the order of extension is sufficient to include Railway areas falling within such State since the extension contemplated in Section 5(1) is inclusive. It speaks of extension to any area in a State, putting the expression “including Railway areas” within parenthesis, thereby attaching an inclusiveness to the expression. Hence, the extension of power to a State would automatically include Railway areas falling therein, in the absence of any specific exclusion of such areas in the order conferring such powers.

- 38.** Moreover, till withdrawal of consent by the State in 2018, there was no grievance of the Government of West Bengal in the operation of the CBI within the State, including Railway areas. As such, the conferment of power has to be deemed to include Railway areas within West Bengal as well.
- 39.** Even the initial consent accorded by the Governor of West Bengal, vide Notification dated August 2, 1989, spoke of the extension of powers and jurisdiction of all members of the Delhi Special Police Establishment to the “State of West Bengal” for investigation of

offences stipulated therein. The withdrawal of consent vide Notification dated November 16, 2018 also referred to the “State of West Bengal”.

40. Since, under Section 6, the consent of the State Government operates only in respect of a State and not Railway areas, which are specifically excluded in the section, the grant or withdrawal of consent by the State Government is irrelevant in respect of Railway areas. The initial extension of power by the Central Government being for the entire State of West Bengal, without any qualification or exclusion of Railway areas, even despite the subsequent withdrawal of consent by the State, such extended powers of the Delhi Special Police Establishment never ceased to continue in respect of Railway areas falling within the territory of West Bengal.
41. Even *Fertico Marketing (supra)* observed that if the FIR originated in a Union Territory, interrogation and investigation could extend to the State of Bihar irrespective of the specific consent of the State of Bihar. However, the existence of a general consent in the said case, unlike the present, is a distinguishing factor. Thus, the ratio laid down therein is not applicable in terms to the present case.
42. *State of West Bengal and others vs. Committee for Protection of Democratic Rights, West Bengal and others (supra)* was rendered on a different footing than the instant case. The Supreme Court held there that the court, under Articles 226 and 32 of the Constitution of India, has powers of judicial review, which includes a direction upon the CBI

to take up any investigation in relation to a crime which was otherwise within the jurisdiction of the State police.

- 43.** Such exercise of power by the courts was held not to be circumscribed by the fetters of Section 6 of the 1946 Act, since the section only creates a restriction on the Central Government to extend the powers of the Delhi Special Police Establishment in the absence of consent of the State. The ingredients of federalism ingrained in our Constitution interdicts in the Central Government imposing its will on the State Governments insofar as the conduct of investigation under the 1946 Act is concerned. The 1946 Act provides sufficient safeguard in the form of Section 6, which contemplates a consent by the State Government in that regard. However, for obvious reasons, Railway areas were excluded, since such areas spread over the whole of the country and are interconnected. Therefore, it would be absurd if each and every State asserts rights over the Railway areas to impose their own fiat regarding such areas, which would adversely affect the continuity of services and operation of the Railways.
- 44.** As far as *Sampat Lal's case (supra)* is concerned, again the courts' power to give direction to the CBI was held to be unfettered by Section 6 of the 1946 Act. In the present instance, no specific case has been made out for an independent direction by the court on the CBI to conduct the investigation.
- 45.** The present challenge relates to exercise of powers by the CBI, on the strength of a Notification of the Central Government, in the light of

withdrawal of consent under Section 6 of the 1946 Act by the State of West Bengal.

46. Thus, the aforesaid judgments do not have any application in the present case. The scope of this court, in the present writ petition, is only to consider the legality and scope of investigation of the CBI in view of the withdrawal of consent by the State, and not to independently direct any such investigation.
47. In *M. Balakrishna Reddy (supra)*, the Supreme Court observed that there was no particular form of consent to be given by the State under Section 6 of the 1946 Act. Thus, it was held that the State had given its consent for the conduct of investigation by the CBI, which renders the ratio laid therein inapplicable to the present case as well.
48. *Kazi Lhendup Dorji (supra)* laid down the proposition that an order giving or revoking consent under Section 6 of the 1946 Act has only prospective operation. Such contention is not of much relevance in the present case, since the FIR was registered only after the withdrawal of consent by the State.
49. A composite reading of Sections 5 and 6 of the 1946 Act makes it evident that the grant or withdrawal of consent by the State Government, though valid for other territories in the State, does not have any repercussion on Railway areas. As observed earlier, in the present case, the initial order of extension of power of the Delhi Special Police Establishment was in respect of the entire State of West Bengal, which includes the Railway areas lying therein in the absence

of any specific exclusion being mentioned in the order of extension. Thus, the authority of the CBI to investigate into the allegations in the present case within Railway areas remains unfettered by the withdrawal of consent by the State Government in 2018, for the simple reason that the extension of powers of the CBI in respect of Railway areas, even in West Bengal, falls outside the purview of the State's authority to grant or withdraw consent.

- 50.** Although it might lead to certain practical difficulties for the CBI to investigate in the Railway areas falling within the State of West Bengal while not being able to conduct such investigation in the other areas of the State, such a conclusion is unavoidable as per the scheme of the 1946 Act, particularly keeping in mind the federal structure recognized by the Constitution of India.
- 51.** Hence, upon a complete assessment of the relevant statutes and the cited reports, it can only be concluded that the CBI has powers to investigate, by virtue of the Order dated February 18, 1963 issued by the Government of India, Ministry of Home Affairs, and to continue such investigation in the Railway areas in so far as the State of West Bengal is concerned. As a necessary corollary, the CBI shall have the authority to summon any witness or suspect for the purpose of interrogation, even if they reside outside the Railway areas in West Bengal, to the limited extent as such interrogation is necessary for investigation within the Railway areas.

52. Accordingly, WPA No. 10457 of 2020 is disposed of in the following manner:

- (i) The FIR, impugned in the present writ petition, being validly lodged, is not interfered with by this court;
- (ii) The Central Bureau of Investigation is authorized to continue its investigations in respect of the said FIR in whatsoever manner within the “Railway areas” situated in West Bengal [areas covered by the definition of “Railway” as provided in Section 2(31) of the Railways Act, 1989];
- (iii) Although the CBI is not authorized to conduct physical raids and/or active investigation into other areas of West Bengal than the Railway areas, it can summon and interrogate witnesses residing in West Bengal, even in places other than Railway areas, for the purpose of such investigation;
- (iv) In the event the CBI deems it necessary for the purpose of such investigation within the Railway areas in West Bengal and in other States, pertaining to the FIR impugned herein, the CBI will be at liberty to approach the State authorities of West Bengal for the purpose of the latter’s co-operation in the matter and necessary permission to hold joint raids and/or investigation. However, such action, in areas beyond the Railway areas, shall be conducted by the CBI only subject to specific consent being granted by appropriate authorities of the State of West Bengal; and

- (v) This order will not prevent the State Government from granting fresh consent under Section 6 of the Delhi Special Police Establishment Act, 1946, in the event it so deems fit, for the extension of the powers and jurisdiction of the CBI to places in West Bengal other than the Railway areas.

53. There will no order as to costs.

54. Urgent certified copies of this order shall be supplied to the parties applying for the same, upon due compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)