

ITEM NO.1605

COURT NO.14

SECTION XVI-A

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

Transfer Petition (Civil) No. 775/2023

ARINDAM PAUL

Petitioner(s)

VERSUS

THE HIGH COURT OF TRIPURA

Respondent(s)

(FOR ADMISSION and IA No.62184/2023-EX-PARTE STAY)

Date : 05-04-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. Rituraj Biswas, Adv.
Mr. Chandan Kumar, AOR
Ms. Sujaya Bardhan, Adv.

For Respondent(s)

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

1. The petitioner is a member of the Tripura Judicial Service. He has, by presenting Writ Petition (C) No. 742 of 2021 before the Tripura High Court, challenged the annual confidential reports for the years 2018 and 2019.

2. It is the grievance of the petitioner that the learned Portfolio Judge, who had assessed the petitioner's performance as a judicial officer and recorded adverse entries in the annual confidential reports for the years 2018 and 2019, would necessarily be a member of the Division Bench to hear the writ petition given the

circumstance that there is no third learned Judge in the Tripura High Court presently, and that principles of natural justice demand that the writ petition be either placed before a Division Bench of which the said learned Portfolio Judge is not a member or that the writ petition be transferred from the Tripura High Court to the Gauhati High Court for consideration.

3. This Court is informed by Mr. Rituraj Biswas, learned Advocate for the petitioner that the writ petition is due to be listed on 11.04.2023 before the Division Bench presided over by the Acting Chief Justice of the High Court and that the said learned Portfolio Judge would be the companion Judge on such Bench. It has also been brought to the notice of this Court that an application has been filed by the petitioner seeking recusal of the said learned Portfolio Judge from hearing the writ petition of the petitioner, which is pending.

4. Without examining the worth of the apprehension that the petitioner might have had in regard to the said learned Portfolio Judge exercising power of judicial review of his own assessment of the petitioner's performance and reflection thereof in the annual confidential reports for the years 2018 and 2019, it would be in the best interest of justice, having regard to the principle that justice must be seen to have been done, if hearing of the writ petition is deferred till such time a third learned Judge is appointed for the Tripura High Court or the Chief

Justice assumes charge of his office to facilitate constitution of a Bench without the said learned Portfolio Judge being a member thereof.

5. In such view of the matter, this Transfer Petition stands disposed of with liberty to the petitioner to seek deferment of hearing of the writ petition before the High Court till such time the strength of the High Court increases so as not to include the said learned Portfolio Judge as a member of the Division Bench.

6. Needless to observe, this Court has not the slightest of doubt that assessment of annual confidential reports on the administrative side and consideration of a challenge to the entries recorded in such reports on the judicial side are distinct and different tasks and that the said learned Portfolio Judge could certainly have a completely different outlook while hearing the petitioner in course of considering the writ petition; however, to allay any apprehension of bias in the mind of the petitioner, this Court has thought it fit to grant liberty for deferment of hearing of the writ petition awaiting constitution of a different Bench, as above, and any observation made in this order is not to be considered as acceptance of the petitioner's plea of bias.

Pending application(s), if any, shall stand disposed of.

(ASHIMA CHHABRA)
SENIOR PERSONAL ASSISTANT

(VIRENDER SINGH)
BRANCH OFFICER