

**13 29.07.11**

**W.P. 8105 (W) of 2011**

**akd**

**Ms. Madhurima Dhanuka,  
Ms. Aarthi Rajan.**

**... For the petitioner.**

**Mr. Tapan Mukherjee,  
Mr. Sakya Sen.**

**... For the State.**

Heard the learned counsel for the parties.

As directed by this Court, the respondent State has filed the report by way of affidavit before this Court. Let the same be taken on record.

The petitioner submits that she would examine the said report and make submissions on the next date. In the meantime, she tenders written submissions on behalf of the petitioners and has drawn our attention to the matters pending in the Supreme Court of Bangladesh, High Court Division, wherein the Supreme Court has also by interim orders passed on 1<sup>st</sup> November, 2010 expressed its anxiety in directing the respondents therein to take immediate steps to ascertain and identify the prisoners of Bangladeshi nationality being held in the prisons of India, in particular West Bengal and to take immediate steps for their repatriation and sought for report from the authorities.

The petitioners have placed a questionnaire for collecting the particulars of Bangladeshi national prisoners, which would facilitate their repatriation.

Learned counsel appearing for the State



<b>09 Sd.</b>	<u>09.09.2011</u>	<p style="text-align: center;"><b><u>W.P. 8105 (W) of 2011</u></b></p> <p><b>Ms. Madhurima Dhanuka, Ms. Aarthi Rajan.</b></p> <p style="text-align: right;"><b>...For the Petitioner.</b></p> <p><b>Mr. Farook M. Razack,. . Ld. Addl. Solicitor Genl. Mr. Utpal Maitra, Ms. Priyanka Bhutoria.</b></p> <p style="text-align: right;"><b>...For U.O.I.</b></p> <p><b>Mr. Ashok Banerjee, Ld. A.G.P. Mr. Tapan Kumar Mukherjee, Mr. Deep Chaim Kabir.</b></p> <p style="text-align: right;"><b>...For the State.</b></p> <p>The petitioner has filed a written statement to update the position in which the decision on the issues have been cited.</p> <p>Learned Additional Solicitor General submits that for the present he could only get some instruction from the Ministry of Home Affairs as regards the repatriation of Bangladeshi National illegally staying in the country. He fairly concedes that this is only a standard operating procedure which is being adopted for the said purpose and the matter is under serious consideration of the Ministry of External Affairs. The learned Additional Solicitor General submits that he may be granted some time to come back and inform the Court about the development in the matter after the Prime Minister of the country met his counterpart and various treaties may have been discussed and signed and this problem may also have been taken into consideration.</p> <p>We make it clear that our concern is mainly on</p>
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detention of Bangladeshi Nationals in Correctional Homes after the period of their sentence is over. We expect that Union of India would address the issue as it does not stop at the level of the State Government as it involves illegal immigrants from Bangladesh who are apprehended and prosecuted under the Foreigners Act, 1946.

We are, therefore, adjourning the matter beyond Puja Vacation to give sufficient time and opportunity to the respondents to come up with a solution.

Let the matter appear before this Court on 18<sup>th</sup> November, 2011.

Photostat plain copy of this order duly countersigned by the Assistant Registrar (Court) be given to the learned counsel for the parties on usual undertaking.

**(J.N.PATEL, CHIEF JUSTICE)**

**(ASHIM KUMAR ROY, J.)**

<u>11</u> Sd.	<u>18.11.11.</u>	<p style="text-align: center;"><b><u>W.P. 8105 (W) of 2011</u></b></p> <p style="text-align: center;"><b>Ms. Madhurima Dhanuka, Ms. Aarthi Rajan.</b></p> <p style="text-align: right;"><b>...For the Petitioner.</b></p> <p style="text-align: center;"><b>Mr. Farook M. Razack,. . Ld. Addl. Solicitor Genl. Mr. Utpal Maitra, Ms. Priyanka Bhutoria.</b></p> <p style="text-align: right;"><b>...For U.O.I.</b></p> <p style="text-align: center;"><b>Mr. Ashok Banerjee, Ld. A.G.P. Mr. Tapan Kr. Mukherjee, Mr. Sakya Sen.</b></p> <p style="text-align: right;"><b>...For the State.</b></p> <p>Learned counsel for the petitioners brought to our notice that the Supreme Court of India is seized with the similar issues involved in this petition as it is dealing with the petition filed by one Bhim Singh (W.P. (Crl.) No. 310 of 2005 Bhim Singh -vs- Union of India &amp; Ors.). It is submitted that the petitioners would like to apply before the Supreme Court of India for transferring the present writ petition before the Supreme Court of India, so that the Supreme Court can deal with the matter.</p> <p>Learned Additional Solicitor General and the learned Government Pleader have no objection.</p> <p>We grant leave to the petitioners to move the Hon'ble Supreme Court by getting this matter transferred from our file to Supreme Court.</p>
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Let the writ petition be removed from our list.

Liberty to mention.

Photostat plain copy of this order duly countersigned by the Assistant Registrar (Court) be given to the learned counsel for the parties on usual undertaking.

**(J.N.PATEL, CHIEF JUSTICE)**

**(DR. SAMBUDDHA CHAKRABORTI, J.)**

