16.05.2020.
ADR/RC/Ct.No.01
Item Nos.1,2&3

W.P. No. 5425(W) of 2020
With
CAN No.3119 of 2020

Software Freedom Law Center India (SFLC,In)
Versus
The State of West Bengal & Anr.

And
W.P. No. 5423(W) of 2020

In Re : Ban of Internet Service in Hooghly District

And
W.P. No. 5424(W) of 2020

Priyanka Tribrewal
Versus
The State of West Bengal & Anr.

(Via Video Conference)

Mr. Prasanth Sugathan
Mr. Indrajeet Dey
Mr. Soumava Mukherjee
Mrs. Priyanka Tibrewal ... for the petitioner

Mr. Kishore Dutta, Ld. A.G. ....for the State

The primary challenge in these three writ petitions is directed against an order issued by the District Magistrate, Hooghly on May 12, 2020, suspending internet service in a certain part of Hooghly.

Learned counsel for the petitioners assailed the said suspension order on various grounds i.e. lack of jurisdiction, there being no justification for issuing such

order and the order is disproportional to the situation prevailing in the area concerned. Learned counsel for the petitioners referred to the Hon'ble Supreme Court's decisions in the case of Anuradha Vasin reported in 2020 SCC Online SC 25 and the Foundations for Media Professionals reported in 2020 SCC Online SC 453.

Learned Advocate General appearing for the respondents challenged the maintainability of the writ petitions on diverse grounds including the ground of alleged lack of locus standi on the part of the petitioners to maintain these writ petitions. He further referred to the relevant provisions of The Temporary Suspension of Telecom Services (due to Public Emergency or Public Safety) Rules, 2017 framed under Section 7 of the Indian Telegraph Act, 1885 and submitted that the impugned suspension order has been passed after complying with the relevant Rules.

Learned Advocate General further submitted that such suspension order can also be passed by the appropriate authority in exercise of power under Section 144 of the Code of Criminal Procedure.

For the time being we are not inclined to go into the aforesaid issues since the learned Advocate General has also submitted that he has written instruction that the order of suspension of internet service, which is

operational till May 17, 2020, will not be required to be extended further in view of the improved law and order situation in the area in question.

Post these matters on May 22, 2020.

The State shall file two separate affidavits, one pertaining to jurisdiction of the District Magistrate to pass the impugned suspension order and the other pertaining to justifiability of the suspension order. Copies of the affidavit pertaining to jurisdiction shall be made available to the learned advocates representing the petitioners in all the three matters in advance.

The petitioners in all the three cases shall be at liberty to bring on record any further materials that they wish to rely upon, by way of filing affidavits before the next date.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Thottathil B. Radhakrishnan, CJ)

(Arijit Banerjee, J)