

THE HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A

WP(C) NO.284 of 2013

Shri Pradip Saha,
S/o Shri Madan Mohan Saha
A.S.I of Ramnagar Police Out Post,
Agartala, West Tripura,
at present :- Teliamura Police Station,
P.O & P.S. Teliamura,
District - Khowai, Tripura.

..... *Petitioner.*

- Vs -

- 1. The State of Tripura,**
Represented by the Secretary,
Home Department, Government of Tripura,
Civil Secretariat, New Capital Complex,
P.O Kunjaban, Agartala,
Tripura (West).
- 2. The Director General of Police,**
Govt. of Tripura, Agartala,
Tripura (West).
- 3. Smt. Rina Debbarma,**
W/o Sri Jenar Debbarma,
Village -Joyram Modi Para,
P.S. Lefunga, P.O. Lefunga,
District - West Tripura.
- 4. Police Accountability Commission,**
Tripura, Agartala,
Represented by its Chairperson,
P.O. Kunjaban, P.S East Agartala,
District - West Tripura,
Pin - 799006.

..... *Respondents.*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE JUSTICE MR. S TALAPATRA

For the petitioner : Mr. D C Roy, Advocate.

For the respondents : Mr. T D Majumder, Govt. Advocate.

Date of hearing and
delivery of judgment : 16.12.2013

Whether fit for reporting : No.

JUDGMENT & ORDER (ORAL)

(Deepak Gupta, CJ)

This petition can be disposed of on a short point. We are not going into the merits of the case but the grievance of the petitioner is that he was not given an opportunity to cross-examine the witnesses.

2. The statements of the witnesses have been annexed with the petition. We find that as many as 5 witnesses were examined before the Police Accountability Commission but no opportunity was given to the petitioner-Pradip Saha to cross-examine any one of these witnesses.

3. The right of cross-examination is a very important right. In many cases the Tribunals are recording the testimony by way of affidavit. When affidavits are tendered in evidence, it has been found that more often than not these are affidavits in the language of Counsel where many facts relevant and irrelevant are stated. It is necessary that such witnesses be cross-examined. Even where a witness appears in person before the Tribunal, the

opposite party has a right to cross-examine such witness. Without cross-examination, the veracity of the statement made in the examination-in-chief cannot be tested.

4. De Smith in his treatise on Judicial Review of Administrative Action has held that cross-examination of witnesses must be permitted. This has become a part of the rule of the *Audi Alteram Partem*.

5. Wade in his exposition of Administrative Law has pointed out that failure to allow cross-examination by an objector leads to quashing of the administrative decision.

6. Cross-examination is an important aspect of any inquiry. The right to cross-examine witnesses can be read into the rules of natural justice and where an order which adversely affects the right of a party is to be passed an opportunity must be given to such party to cross-examine the witnesses.

7. Therefore, on this short ground, we are of the opinion that the order of the Police Accountability Commission, respondent no.4 cannot be sustained. The same is accordingly set aside. It is for the Police Accountability Commission to decide whether it wants to reopen the matter and if it decides to do so then it must give the petitioner an opportunity of not only cross-examine the witnesses but an opportunity to lead his own evidence and put forth his views on the case.

With these observations the writ petition is disposed of.

JUDGE

CHIEF JUSTICE

Sukhendu