

20.07.2022
sayandeep
Sl. No. 16
Ct. No. 05

WPA 11910 of 2022

Phonographic Performance Limited & Anr.
-Versus-
The State of West Bengal & Ors.

Mr. Abhrajit Mitra
Mr. Sayantan Basu
Mr. Tanmoy Roy
.....for the petitioners

Mr. Prithvijoy Das
Mr. Raj Barnan
Ms. Ishani Ghosal
Ms. Pramila Halder
.....for the respondent nos. 9 to 12

Ms. Ipsita Banerjee
.....for the State

The petitioner no.1 claims to be the assignee of the copyright on the sound recordings for public performances and public communication under a deed of assignment as well as under the provisions of The Copyright Act, 1957.

The prayer of the petitioners is for an order of injunction restraining the Police Authorities from issuing any communications allowing the private respondent from arranging the programme without any disturbance at certain hotels in the city.

The private respondents are the event managers of marriage ceremonies where songs and sound recordings are played. The petitioners claim to have a copyright in these songs and sound recordings under the provisions of The Copyright Act.

Learned counsel appearing for the petitioners, Police Authorities as well as the private respondents also refer to the Government of India Notification of 27.08.2019 allowing songs and sound recordings to be played in the marriage ceremonies and procession under Section 52(1)(za) of The Copyright Act. The said Notification was subsequently declared void by the Punjab and Haryana High Court on 19th May, 2022.

It is the case of learned counsel appearing for the State that this order was served on the Police Authorities on 24.06.2022 that is one day after filing of the writ petition. Counsel also submits that after being served with the order of the Punjab and Haryana High Court, the Police Authorities have not issued any further communication to the private respondents on playing any sound recordings in marriage ceremonies or otherwise.

The above submission of the State may be recorded.

Counsel appearing for the petitioners refers to the action of the Police Authorities even as on 28.05.2022 when the police demanded license fees from the private respondents.

However, given the stated position of the Police Authorities and the fact that the Police Authorities have not issued any further communication on the private respondents in the matter of playing sound recordings

of which the petitioners claim copyright, nothing further remains to be decided in the writ petition. It may be noted that the prayers in the writ petition only mention three dates i.e., 28.05.2022, 31.05.2022 and 16.06.2022 relating to the impugned action/over-action on the part of the Police Authorities.

The petitioners' recourse with regard to their claim of copyright lies in the Civil Court and the petitioners are at liberty to approach the Civil Court for appropriate relief. The State authorities are restrained from giving permission or entering into the disputed arena in terms of copyright claims.

WPA 11910 of 2022 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)