

Court No. - 39

Case :- WRIT - C No. - 38854 of 2023

Petitioner :- Anjum

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Jagdish Prasad Mishra, Abhilash Singh

Counsel for Respondent :- C.S.C., Sandeep Kumar Srivastava

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard Shri Jagdish Prasad Mishra, learned counsel for the petitioner; Shri Sandeep Kumar Srivastava, learned counsel for U.P. Pollution Control Board and Shri Nishant Mehta, learned Standing Counsel for the State respondent.

2. This much is undisputed that the impugned order dated 14.07.2023 passed by Chief Environment Officer, Circle Officer-3, has been passed without issuing any show cause notice to the petitioner.

3. Insofar as civil liability of Rs. 87,10,000/- has been created for alleged violation of environmental law, we find it difficult to sustain such order in face of admitted non-compliance of rules of natural justice.

4. In the context of heavy civil liability imposed, we observe that such orders may arise only upon due opportunity of hearing granted to the alleged defaulter/violator of environment laws. Unless reply is called and the objections to the proposed penalty etc, considered by a reasoned and speaking order after affording due opportunity of hearing, the requirement of rules of natural justice, which are embedded in our jurisprudence, may never be satisfied.

5. Seen in that light, the impugned order cannot be sustained. As to the proceedings, the petitioner may treat the impugned order dated 14.07.2023 to be a show cause notice and may file his written reply thereto within a period of two weeks from today, supported by his personal affidavit and annexing such documents on which he seeks to rely. Upon such reply being furnished, respondent no.3 may fix appropriate date of hearing with 15 days notice (of the date), to the petitioner. Petitioner undertakes to appear before the respondent no.3 and participate in the proceedings without causing undue delay. In such proceedings, the petitioner may also be confronted with any adverse material that may be available with the said respondent.

6. Needless to add, in case of any adverse material existing and being confronted to the petitioner, he may be granted adequate opportunity to rebut the same. Thereafter, appropriate reasoned order may be passed dealing with the petitioner's objection, as expeditiously as possible, preferably within a period of three months from the date of first compliance made by the petitioner.

7. Subject to first compliance made by the petitioner, further recovery pursuant to the impugned order shall remain stayed for the period of three months or till disposal of the petitioner's objection, whichever is earlier.

8. With the aforesaid observations, the present petition stands **disposed of.**

Order Date :- 8.11.2023
Prakhar

(Shiv Shanker Prasad, J.)

(S.D. Singh, J.)