

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2540 of 2013

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Devendra Prasad Singh S/O Late Jwala Prasad Singh R/O M/S Bharat Chemicals Works, Power House Road (Opposite Dr. Umesh Singh Clinic), P.S.- Town (Begusarai), District- Begusarai

.... Petitioner/s

Versus

1. The Union Of India Through The Principal Secretary Ministry Of Petroleum, New Delhi
2. The Managing Director Indian Oil Corporation Limited, G-9, Ali Javar Jung Marg, Bandra (East), Mumbai-400051
3. The Regional Manager, IOCL, Maurya Lok Complex, Bandar Bagicha, Patna-800001
4. The Sales Manager, IOCL, Maurya Lok Complex, Bandar Bagicha, Patna-800001
5. The Deputy Material Manager Barauni Refinery, Begusarai, Bihar-851114

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madan Pd. Singh No.2, Adv.
Rakesh Kumar, Adv.

For the R. No.1 : Ms. Kanak Verma, CGC

For the Respondent/s : Mr. Kirpa Nand Gupta, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-01-2017

Heard learned counsel for the parties.

In the present case, the petitioner is challenging the order dated 14.12.2012 issued under the signature of Senior Material Manager, Refineries Division, Barauni Refinery whereby forfeited the value of undelivered quantities of scrap Aluminum cable lying with the Indian Oil Corporation, Barauni Refinery and security deposit.

In the present case, the petitioner was allowed to lift 15 M.T. of scrap Aluminum Core Scrap cut Cables but while lifting, it was found that the petitioner has also lifted 31 bundles of Copper



Core cut cable weighing 1060 Kg., whereupon, a show-cause notice was issued to the petitioner vide order dated 4.10.2012 as to why the amount of deposit by way of earnest money and security be not forfeited. In pursuance thereof, the petitioner filed a detailed show-cause reply dated 31.10.2012 giving all his explanations and defence, in pursuance thereof, the Senior Material Manager, Refineries Division passed an order thereby rejected and forfeited the amount which was lying with the Corporation.

The Corporation has a right to pass any order but it must reflect that the authority has considered the show-cause and passed the order but if the order does not disclose any consideration of the show-cause the same suffers from arbitrary exercise of power. Speaking or reasoned order is a part of natural justice and that can be supported by judgment of the Hon'ble Apex Court in the case of *Chairman and Managing Director, United Commercial Bank & Ors. Vs. P.C. Kakkar* reported in 2003(4) SCC 364. In that judgment, it has been specifically mentioned that when the authority passes order must be a reasoned order while exercising judicial or quasi judicial jurisdiction to disclose reasons as to why he has passed an order against the petitioner. In the present case, admittedly the order does not disclose that any consideration has been given to the material which the petitioner had brought in the show-cause reply. Only the order quotes



the statements mentioned in the show-cause and nothing is there.

In that view of the matter, this Court is of the view that the order is not sustainable. Accordingly, the order dated 14.12.2012 is set aside. The matter is remanded back to the Senior Material Manager, Refineries Division, Barauni Refinery, Begusarai who, after considering the material that has been brought by the petitioner in the the show-cause reply will pass a reasoned order in accordance with law.

With the aforementioned observation, this application is allowed to the extent indicated above.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2017
Transmission Date	

