

23.09.2020

ss

W.P.A. 6895 of 2020
C.A.N. 1 of 2020
(Through Video Conference)

Giriraj Kumar Bhaiya
Vs.
Union of India & ors.

Mr. Dhruba Ghosh
Mr. Ganesh N. Jajodia
Mr. Rohit Banerjee
Ms. Satabdi Dutta
... For the petitioner

Mr. Sovan Mukherjee
... For the respondent no.4

The application being C.A.N. 1 of 2020 relating to urgency of this writ petition is taken up for hearing and disposed of accordingly.

The petitioner has placed his case. It is a case of banning of business. Railways have issued a memorandum dated 2nd March, 2020 and also it is recorded in the said memorandum that the contract relating to which the banning of the business dealing with memorandum has been issued, is of 2008.

On perusing the Articles of Charge annexed to the memorandum, I find that in this matter oral evidence is required to be taken before taking any decision to the validity and/or legality of the initiation of the banning of business dealing.

The petitioner has relied upon two judgements reported in (2005) 6 S.C.C. 636 (P.V. Mahadevan Vs. Md. T.N. Housing Board) and reported in (2010) 13 S.C.C.

427 (ORY X Fisheries Private Limited Vs. Union of India and others).

The first case of 2005 is a service matter and the second matter of 2010 is a matter of an administrative law relating to foreign trade and cancellation of registration certificate where it was alleged that speaking order was not published and principle of natural justice was violated.

The present case is only at the stage of showing cause as to why business banning will not be executed to which the petitioner has given a detailed reply dated 12th August, 2020, which is annexure P3 of the writ application. The procedure of banning business has just started and I do not find also any reason to stop this process.

Further the Writ Court is not the appropriate forum for dealing with such a matter where oral evidences are required to be taken to decide whether the memo is sustainable or not and therefore, following the principle laid down in L.I.C.I. Vs. Smt. Asha Goel & anr. reported in (2001) 2 S.C.C.160, I am not inclined to entertain this application.

The writ petition is, accordingly, dismissed without, however, any order as to costs.

(Abhijit Gangopadhyay, J.)