

17.08.2021
jb.

W.P.A. 11734 of 2021

Pradip Arora
Vs.
State of West Bengal & Ors.

Mr. Saptangshu Basu
Mr. Somnath Roychoudhury
.... For the Petitioner

Mr. Chandi Charan De
Mr. Soumitra Bandyopadhyay
Ms. Kakali Naskar
.... For the State

The petitioner assails a demand notice dated 14 March, 2021 ('the impugned notice') inter alia directing the petitioner to pay a sum of Rs.47,85,657/- for violation of the provisions of the Mines and Minerals (Development and Regulation) Act, 1956 and the Rules framed thereunder.

The solitary grievance of the petitioner insofar as the impugned notice is concerned is that the same does not contain any reasons.

The brief facts of the case are that the petitioner was awarded a license for extraction of sand at a plot situated at Mouza-Kankora. In view of the alleged transgression and violation of the terms and conditions of the lease deed the respondent State authority issued

an earlier notice of demand dated 23 April, 2019 for a sum of Rs.81 lacs approximately from the petitioner. Thereafter, the petitioner was given a notice for hearing and a joint inspection was also conducted by and between the petitioner and the representatives of the respondent State. Subsequently, the respondent State has issued the impugned notice whereby the petitioner has been directed to pay a sum of Rs.47,85,657/- for extraction of sand beyond the area which had been leased to the petitioner.

It is submitted on behalf of the petitioner that the impugned notice of demand does not contain any reasons whatsoever nor does it consider the basis for imposing such fine.

The State is represented and submits that by a letter dated 19 January, 2021 the petitioner was given an opportunity to attend the hearing but deliberately chose not to appear before the concerned authority. Subsequently, the petitioner had also given a representation which had been considered by the concerned authority in passing the impugned order.

I find from the initial letter of demand dated 23 April, 2019 that the petitioner was directed to pay a sum of Rs.81 lacs for violation of the terms and conditions of the lease deed. In default of complying with the letter dated 23 April, 2019 the petitioner was also threatened with penal action in accordance with

law. Thereafter, the parties conducted a joint inspection. It is true that the petitioner was also given an opportunity of hearing but chose not to attend the same. However, the only question that arises for consideration in this petition is that whether the impugned demand notice contains any reasons at all.

I find from a perusal of the impugned notice of demand that the same arrives at a conclusive finding that the petitioner had extracted approximately 11 lacs 50 thousand CFT sand beyond the leasehold authority which had been allotted to the petitioner without mentioning the materials on which such finding has been arrived at. There is also no basis spelt out in the impugned notice as to how the concerned respondent has arrived at the figure of Rs.47,85,657/- as the fine payable by the petitioner.

It is well settled that the reasons are safeguard against the ipse dixit of the decision making process.

They discuss how the mind has been applied to the matter in issue in the controversy. I find that in issuing the impugned notice of demand there is no 'why' for the 'what' to stand on.

Accordingly, I am of the view that there are no reasons whatsoever in the impugned demand notice. In view of the aforesaid the impugned noticed dated 14 March, 2021 (Annexure P-16, page-142 of the writ petition) is quashed and set aside. I direct the

Additional District Magistrate and District Land and Land Reforms Officer, Purba Bardhaman to give an opportunity of hearing to the petitioner possibly within 7 days from date and conclude the proceeding pending before them within 3 weeks from the date of communication of this order. It is made clear that the petitioner is not to be granted any adjournments on any grounds whatsoever and will fully co-operate with the concerned respondent authority.

I make it clear that I have not gone into the merits of the case insofar as the imposition of the penalty is concerned and the respondent authority is not bound by any observation on the merits of this case insofar as penalty/fine under the aforesaid Act and Rules are concerned.

I clarify that the only ground for interference with the impugned demand raised by the respondent is on the ground of non-furnishing of reasons.

I am fully mindful that the petitioner may have an alternative remedy under the provisions of the aforesaid Act and the Rules framed thereunder but in view of the fact that there is a clear violation of the principle of natural justice and in view of my finding that the impugned order contains no reasons whatsoever, I chose to exercise my discretion in entertaining and allowing this petition.

In view of the aforesaid WPA 11734 of 2021 is allowed to the aforesaid intent.

There shall be no order as to costs.

Photostat certified copy of this order, if applied for, be given to the parties on compliance of requisite formalities.

(Ravi Krishan Kapur, J.)