

18.07.2022
Ct. 5
D/L 24
ab

WPA 3020 of 2022

Soumi Paul

-Vs-

The State of West Bengal & Ors.

Mr. Soumya Roychowdhury
Mr. Sayan Ganguly,
Mr. Satyaki Mitra

... for the petitioner

Mr. Amal Kumar Sen,
Mr. Swapan Kumar Pal,

.... for the Legal Metrology Department

Ms. Chama Mukherjee,
Mr. Gourav Das

... for the State

The petitioner prays for a direction on the respondent authorities to forthwith return the weighbridge seized from the petitioner by the police authorities on 11th September, 2021.

After hearing learned counsel appearing for the petitioner, the State and the Legal Metrology Department, it appears that Section 151 of the Legal Metrology Act, 2009 has taken away the power of the police to inspect, search for any weights or measures or instruments for weighing, used or kept in a premises or seized the same under Sections 153(1) and (2) of the Code of Criminal Procedure, 1973. Section 3 of The

2009 Act, further makes it clear that the Legal Metrology Act shall have overriding effect over any Act which is inconsistent with The 2009 Act. Section 15 of The 2009 Act gives the power of search and seizure of any instrument of weight or measure, which is being used in a premises in respect of an offence punishable under The 2009 Act.

The Supreme Court in *State of Uttar Pradesh Vs. Aman Mittal ; (2019) 19 SCC 740* recognized the overriding effect of the Legal Metrology Act and particularly of Section 51 of the said Act, by which the power of the police authorities under Section 153 of the Code of Criminal Procedure was taken away.

The report filed by the State/police makes it clear that the weighbridge of the petitioner was seized upon compliant being received by the police and after two persons named in the report fled from the inspection site. The report also states that the weighbridge of the petitioner is presently with the police authorities.

The legal Metrology Department is represented.

Besides the statutory provisions, which have been stated above, the letter of the Assistant Controller of Legal Metrology, Howrah dated 7th January, 2022 also clarifies the overriding provisions of The 2009 Act.

Considering all the above aspects, there is no doubt that the police authorities were not empowered to seize the articles mentioned in the Report. Since the

seized articles are presently with the police authorities, as corroborated in the seizure list, the police authorities shall return the same to the petitioner within seven days from date.

WPA 3020 of 2022 is disposed of in terms of the above.

(**Moushumi Bhattacharya, J.**)