

23-03-2022
Item No.7
Subrata

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.20499 of 2021
Shri Gobinda Das & Ors.
-VS-
Union of India & Ors.

Mr. Abhratosh Majumder
Mr. N.K. Chowdhury
Mr. Prabir Bera
Mr. Nilotpall Chowdhury ...for the petitioners

Mr. Y.J. Dastoor
Mr. Raja S. Banerjee ...for the Union of India

Mr. Ranjan Kumar Ray ...for respondents no.2 & 3

Heard Mr Majumder, learned senior advocate appearing for the petitioners, Mr Dastoor, learned Additional Solicitor General appearing for the Union of India, and also Mr Ray, learned advocate for the Enforcement Directorate.

In this writ petition, petitioners have challenged the impugned order dated November 9, 2021 passed by the adjudicating authority concerned under the Prevention of Money Laundering Act, 2002 on the grounds of violation of principles of natural justice by not providing the opportunity of personal hearing to the petitioners.

It is to be recorded that several opportunities were given to the respondents to produce the records to establish that the opportunity of personal hearing was given to the petitioners, particularly on February 8, 2022, February 17, 2022, March 3, 2022 and March 21, 2022 but the respondents could not produce any record in this regard to disprove the allegation of the petitioners of denial of opportunity of personal hearing to them. Though the adjudicating authority has filed a report mentioning therein that opportunity of personal hearing was given to

the petitioners, but it could not substantiate the same by producing any record before this court.

Considering the facts and circumstances of the case, this court is compelled to presume that in this case no opportunity of hearing was given to the petitioners.

Considering the facts and circumstances of the case, the impugned order dated November 9, 2021 being Annexure P6 to the writ petition is set aside and the matter is remanded back to the adjudicating authority concerned for passing a fresh order in accordance with law, after giving the petitioners opportunity of personal hearing.

By the consent of both the parties, date of personal hearing before the adjudicating authority concerned is fixed on April 5, 2022 at 2 p.m. In case the adjudicating authority feels any inconvenience on the date and time as stipulated, it may change the same with prior intimation to the petitioners and by providing link to the petitioners in advance to enable the petitioners to get sufficient time to present their case.

In view of setting aside of the aforesaid impugned order, all legal consequences will follow and further action by the respondents will depend on the final outcome of the order to be passed on the fresh hearing in the matter.

Further, it is recorded that this court has not gone into the merits of the impugned order and it has been set aside solely on the ground of violation of principle of natural justice.

With the above observations and directions, WPA No.20499 of 2021 stands disposed of.

[Md. Nizamuddin, J]

