

01.12.2022.
p.b.
Sl. No.17.

WPA 26090 of 2022

Akshoy Kumar Ghosh & Sons
Vs.
Principal Commissioner of Customs
(Airport & ACC Commissionerate), Kolkata & Ors.

Mr. Mainak Bose,
Mr. Neeraj Kr. Pandey,
Mr. S. M. Akhter,
Mr. Shanjit Thokchom.
.....for the petitioner.

Mr. Vipul Kundalia,
Ms. Manasi Mukherjee.
.....for the respondent.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned notice of post decisional hearing on suspending the petitioner's licence, on the ground that the Commissioner of Customs (AA) issuing notice of hearing is the same person and same officer who has filed the alleged offence report against the petitioner customs broker and has passed the interim order of suspension. It is well settled principle of law that no person can be a judge in his own case since there is very much likelihood of biasdness by the same person who has filed the report of offence and who himself acts as an adjudicator on the basis of the offence report.

Considering the facts and circumstances of this case this writ petition being WPA 26090 of 2022 is disposed of by directing the Chief Principal Chief Commissioner of Customs concerned to appoint another officer having the same rank to hear the case of the petitioner relating to suspension of his licence. Time for personal hearing on the basis of the aforesaid impugned notice dated 22nd November, 2022 is extended by 30 days from date. For the limitation purpose the period from the date of initial notice dated 22nd November, 2022 till the date of issuance of fresh notice for personal hearing shall be excluded. Needless to mention that the authority concerned to be appointed to hear the matter shall pass a speaking and reasoned order in accordance with law. It is recorded that this Court has not gone into the merit of the order of alleged suspension and the authority while deciding the case of the petitioner shall act strictly in accordance with law. In view of this order, the officer who has issued the impugned aforesaid notice dated 22nd November, 2022 shall not be eligible to proceed on the basis of the aforesaid notice.

(Md. Nizamuddin, J.)