

23.11.2023  
Item No. 07  
Court No.11  
Avijit Mitra

**MAT 156 of 2023  
with  
IA No. CAN 1 of 2023**

**Dharmu Jaiswara  
-Versus-  
M/s. Eastern Coal Fields Limited & ors.**

Mr. Partha Ghosh,  
Mr. Amal Kumar Dutta,  
Ms. Simran Sureka,  
Mr. Debashis Das  
....for the appellant  
Mr. Syed Nurul Arefin,  
Mr. Syed Moyeenul Arefin,  
Ms. Reshmi Binayak  
...for the respondents

The present appeal has been preferred challenging an order dated 19<sup>th</sup> January, 2023 passed by the learned Single Judge in a writ petition being WPA 1069 of 2023 preferred by the petitioner/appellant herein challenging *inter alia* the chargesheet dated 4<sup>th</sup> July, 2022 issued by the respondent no.8. By the said order, the parties were directed to exchange their affidavits and it was directed that '*any final order passed in the enquiry proceeding will not be given effect to without leave of this Court*'.

Mr. Ghosh, learned advocate appearing for the appellant submits that the chargesheet had been issued after the appellant had completed about 33 years of service. The chargesheet is a stale one and

there is no explanation of the inordinate delay in initiating the proceedings. The learned Single Judge glossed over the said issue, as argued, and did not return any finding on the same and refused the appellant's prayer for stay of the impugned chargesheet. Such infirmity warrants interference of this Court. Reliance has been placed upon the judgments delivered in the cases of *P.V. Mahadevan – vs- MD, T.N. Housing Board*, reported in (2005) 6 SCC 636 and *Dibyendu Chakraborty –vs- Union of India and Ors.*, reported in 2022(1) CLJ(Cal) 550.

He submits that the appeal has been preferred only for the purpose of stay of the enquiry proceedings.

*Per contra*, Mr. Arefin, learned advocate appearing for the respondents submits that a serious complaint had been lodged against the appellant on 20<sup>th</sup> May, 2022 and on the basis of the same, the memo dated 4<sup>th</sup> July, 2022 was issued. Thus, the allegation that there had been an inordinate delay in issuing the chargesheet is not sustainable. The appellant submitted his reply on 20<sup>th</sup> June, 2022 and preferred the writ petition thereafter. The writ petition has not yet been finally decided and the order impugned does not suffer from any infirmity warranting interference in the present appeal.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The learned Single Judge had already granted an *interim* protection to the appellant and had called for affidavits from the parties to finally adjudicate the matter. We have been informed that the respondents had already filed an affidavit-in-opposition. In the said conspectus, no interference is called for in the present appeal.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

**(Uday Kumar, J.)**

**(Tapabrata Chakraborty, J.)**