

4th July,
2023
(AK)
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W.P.A 15271 of 2023

R.P. Techvision (I) Private Limited and another
Vs.
Union of India and others

Mr. Bikash Ranjan Bhattacharya
Mr. Subhankar Nag
Mr. Avishek Guha
Ms. A. Dutta
Ms. Akansha Chopra
Ms. Debarati Das

...for the petitioners.

Mr. Vipul Kundalia
Mr. Amit Sharma

...for the respondents.

The grievance as ventilated by learned senior counsel appearing for the petitioners is that on a previous occasion, a show cause notice had been issued by the respondent authorities in respect of cancellation of license of broadcasting of the petitioners.

It is submitted that, on such occasion, by an order dated October 5, 2021 passed in WPA 16468 of 2021, a coordinate Bench had directed the respondents to consider the representation of the petitioners in the form of reply to the show cause made by the writ petitioners, by a reasoned order, within a period of four weeks from the date of communication of the order, after giving an opportunity to the petitioners of being heard and further

to communicate a copy of the reasoned order to the petitioners.

That apart, it was observed by the learned Single Judge that the respondent authorities were to stay their hands for a period of six weeks from the date of the order and not to give effect to the show cause notice dated September 27, 2021 “till a reasoned decision at the end of the respondents” till disposal of the writ application on merit.

It is submitted that subsequently, another show cause notice has been issued, which is under challenge in the present writ petition, whereby it has been disclosed that the petitioners have not paid charges for up-linking and down-linking.

Accordingly, the petitioners have been required to show cause as to why the permitted TV channel(s) should not be prohibited from broadcasting for a period up to 30 days under Clause 25(1)(viii) of the Policy Guidelines, 2022 for violation of the clauses as indicated therein.

It is apprehended by the petitioners that, as was going to happen on the previous occasion, the respondent authorities may prohibit the petitioners from continuing to broadcast, despite the petitioners having clearly enumerated in their reply to the show cause, given by way of a representation, that the entire amount-in-question has been duly paid by the petitioners.

That apart, learned senior counsel for the petitioners, on instruction, further submits that the petitioners are agreeable on principle to pay all due amounts, if any, from the end of the petitioners, provided the respondent authorities disclosed such amount.

Learned counsel for the respondent authorities controverts such submissions and argues that the writ petition is premature, since no cause of action or apprehension regarding prohibition of the petitioner to broadcast has been expressed in the writ petition, prior to a decision being taken on the petitioners' reply to the show cause.

It is submitted that the petitioners have challenged the show cause notice itself, prior to a hearing being given on the same and, as such, there is non-disclosure of any cause of action worth the name in the writ petition for interference by this court.

A perusal of the records indicates that on a previous occasion, during pendency of a writ petition, an order was passed to the effect as indicated above.

On the present occasion, however, it has been rightly argued by the respondent authorities that the petitioners have preferred the writ petition at a premature juncture, since the mere show cause notice of the respondents does not tantamount to a direct threat of disconnection or prohibition of broadcast by the

petitioners, prior to a decision being taken on the said reply of the petitioners to the show cause.

Since the petitioners, in the present case, have already given a reply (annexed to the writ petition) to the show cause notice, which is elaborate in nature, there cannot be any occasion for the respondent authorities to prohibit the broadcasting by the petitioners prior to coming to a decision on the said reply of the petitioners.

Accordingly, WPA 15271 of 2023 is disposed of by directing the respondent authorities to decide on the issue raised in the show cause notice and replied to by the petitioners, upon giving an opportunity of hearing to the petitioners, in accordance with law as expeditiously as possible, preferably within two months from date.

Of course, as rightly contended by the respondents, there cannot arise any occasion of prohibiting the broadcast by the petitioners prior to the respondent authorities taking a decision on the show cause notice.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)