

18.10.2023
DL-8
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23832 of 2023

Sri Vimal Kumar
Vs.
Union of India & Ors.

Mr. Achin Majumder

....for the petitioner.

Mr. Aurobindo Sen,
Mr. Madhu Jana,
Mr. Rahul Agarwala

....for Union of India.

The petitioner prays for quashing of memorandum of charges dated June 2, 2023 and a purported enquiry report dated September 4, 2023. The petitioner also prays for quashing of a show cause notice dated September 18, 2023.

Mr. Majumder, learned counsel appearing on behalf of the petitioner submits that with mala fide intent the show cause was issued and the memo of charges were framed against the petitioner.

He draws the attention of the Court to the observations made by the Additional Sessions Judge, Special Judge, POCSO, Banka.

Mr. Sen, learned counsel appears on behalf of Union of India.

Relying on a judgment passed by the Hon'ble Apex Court reported in (1987) 2 SCC 179 (**State of Uttar Pradesh vs. Brahm Datt Sharma & another**),

this Court is of the view that proceedings cannot be quashed at the enquiry stage or at the show cause stage since the adjudication or determination of the rights of the parties are not complete.

This Court also finds that there is no jurisdictional error in passing of the show cause notice.

Accordingly, **WPA 23832 of 2023** is **dismissed**.

Since no affidavits have been directed to be exchanged in the writ petition, the allegations contained therein are deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

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

(Lapita Banerji, J.)