

D/L. 67.
January 13, 2023.
MNS.

WPA No. 27829 of 2022

Kazi Maksudul Islam
Vs.
The State of West Bengal and others

Mr. Subhendu Roy Chowdhury,
Ms. Shila Chatterjee

... for the petitioner.

Mr. Nilotpal Chatterjee,
Mr. Debashis Ghosh,
Mr. Debraj Saha

...for the State.

The grievance of the petitioner is that the petitioner's excavator was seized without any reason, thereby depriving the petitioner of the means of livelihood.

Learned counsel appearing for the respondent authorities, pursuant to the query of court, files a report claiming that the seizure was made in terms of Section 129 of the West Bengal Goods and Services Tax Act, 2017 (2017 Act).

It transpires that sub-Section (4) of the Section 129 provides that no tax, interest or penalty shall be determined under sub-Section (3) thereof without giving the person concerned an opportunity of being heard.

However, it is contended by learned counsel for the petitioner that no date of hearing has yet been fixed.

Accordingly, since there is a competent authority to decide such disputes as provided under the 2017 Act, there is no scope of interference at this juncture by this Court in writ jurisdiction.

WPA No. 27829 of 2022 is, thus, disposed of by directing the respondent-authorities to issue a notice indicating a date of hearing to the petitioner. Such notice shall be issued within a week from date, indicating clearly therein the exact date, time and address at which the petitioner is to appear for the purpose of such hearing.

Upon the petitioner being so heard, the respondent-authorities shall decide the issue expeditiously in accordance with law.

It will be open to the petitioner to challenge the ultimate decision taken by the authorities, if aggrieved thereby, before the appropriate forum as designated under the Act.

In the event the petitioner duly complies with the requirement of the 2017 Act, the

respondent-authorities shall release the excavator of the petitioner immediately thereafter.

This Court has not entered into the merits of the allegations and counter-allegations of the parties, including the question as raised by the petitioner as to whether the excavator-in-question is, in the strict technical sense, a 'vehicle' for the purpose of seizure.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)