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27.03.2023
d.p.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A 310 of 2023

**Sagar Sarkar
-versus
Regional Provident Fund Commissioner & Ors.**

**Mr. Bikramaditya Ghosh,
Ms. Supriya Singh.
...For the Petitioner.**

**Mr. Bhaskar Roy Mahashaya.
...For the Respondents.**

The recovery notice issued to the petitioner by the Assistant Provident Fund Commissioner (Compliance) dated 9th December, 2022 is under challenge in the present writ petition.

It appears therefrom that the respondent authority directed the petitioner to refund the amount which was received as an incentive under the ABRY Scheme allegedly upon providing falsified information.

The details of the information which was alleged to be false are, however, not mentioned in the recovery notice.

The petitioner relies upon the judgment dated 31st January, 2023 passed by a Co-ordinate Bench of this Court in WPA 285 of 2023 (Pradip Chandra –vs- Regional Provident Fund Commissioner & Ors.) wherein the Hon’ble Court was pleased to set aside similar recovery notices.

Learned advocate appearing for the respondent authority submits that the notice was issued as from the documents available on record, the authority was convinced that the petitioner provided false information.

Upon hearing the parties and upon perusal of the recovery notice it appears that, certain benefit granted to the petitioner was directed to be refunded, without affording any opportunity of hearing and without mentioning the reasons/grounds for such refund.

The action of the respondent authority is contrary to the principles of natural justice. Prior to taking any action which attracts civil consequences, an opportunity of hearing ought to have been given to the petitioner for production of necessary evidence in support of his claim.

In view of the above, the impugned recovery notice is liable to be set aside and is, accordingly, set aside.

The respondent authority shall afford an opportunity of hearing to the petitioner and the petitioner shall produce necessary documents in support of his claim before the said authority.

Upon perusal of the said document(s), the respondent authority shall pass fresh order and communicate the same to the petitioner.

Steps shall be taken in the matter at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order.

Leave is granted to the petitioner to make appropriate application for unblocking the online provident fund portal. On receipt of the said application, the provident fund authority shall take steps for unblocking the portals to enable the petitioner to deposit the provident fund contribution in the said portal.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)