

31.01.2024
rc/ct.no.10
Item No.18

WPA No. 12579 of 2023
Md. Kasem Ali
Versus
The State of West Bengal & Ors.

Mr. Pinaki Ranjan Chakraborty ..for the petitioner

Mr. Soumitra Bandyopadhyay
Mr. Srinath Singha Royfor the State

Mr. Kamalesh Bhattacharjee
Mr. Anindya Bhattacharjee
...for the private respondent

Affidavit of service filed by the petitioner is taken on record.

Heard learned counsels for the parties.

The notice of closure of operation of brick field issued upon the petitioner by the Block Land and Land Reforms Officer, Barasat-I, North 24-Parganas on April 24, 2023 is under challenge in the writ petition.

It is submitted on behalf of the petitioner that the private respondents filed a writ petition being WPA No. 5169 of 2022 without impleading the petitioner therein though the petitioner has been operating the brick field all through out. A dead person was impleaded as a party respondent in the earlier writ petition and an order passed behind the petitioner's back. A show cause was issued upon the petitioner on February 27, 2023 directing him to explain why action would not be taken against him in accordance with law since he was operating the brick field

even after expiry of the lease agreement. The petitioner replied to the show cause notice which was not taken into consideration by the authority who issued the notice for closure of operation without giving an opportunity of hearing to the petitioner.

It is not in dispute that the reply to the show cause submitted by the petitioner was not considered by the authority and no opportunity of hearing was granted to the petitioner prior to the issuance of the notice impugned. Also, admittedly a dead person was impleaded as the private respondent in the earlier writ petition and the petitioner who has been operating the brick field was not made a party therein. The notice impugned is also bereft of any reasoning.

In view of the above, this Court is inclined to hold that the notice impugned dated April 20, 2023 is required to be set aside and the petitioner ought to be given an opportunity to substantiate his cause before the authority before any steps are taken by the authority in this regard.

The notice impugned dated April 29, 2023 is set aside.

The writ petition is disposed of directing the concerned authority being the 3rd respondent to consider the reply to the show cause submitted by the petitioner and revisit the issue upon affording reasonable opportunity of hearing to all concerned including the

petitioner and the private respondent, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

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

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)