

26th April,
2024
(AK)
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W.P.A 24020 of 2023
IA No: CAN 1 of 2024

Kapil Deo Rajwar
Vs.
Manager, Punjab National Bank and others

Mr. P.K. das
Mr. Subrata Mukherjee
Ms. Ankita Mitra

...for the petitioner.

Mr. Debasis Sur
Mr. Biswajit Mitra
Mr. Anshuman Patra

...for the respondent no.3.

1. The writ petition as well as the interlocutory application are taken up together for hearing, since the prayer in the interlocutory application, if allowed, would virtually tantamount to deciding the writ petition itself.
2. Learned counsel for the respondent-financier hands over certain documents in court today.
3. One of the documents is the purported order passed by an arbitrator freezing the bank account of the petitioner.
4. The other document handed over is a purported forwarding letter to the petitioner communicating the order of the Arbitrator, passed apparently under Section 17 of the Arbitration and Conciliation Act, 1996.

5. The background of the case is that the petitioner has been acting as a sweeper of the Kolkata Municipal Corporation and by virtue of the impugned action, the salary account of the petitioner held with the Punjab National Bank has been freezed.
6. The petitioner, coming from the marginalized sections of society, has been suffering immensely, since his entire source of livelihood is the job of the Kolkata Municipal Corporation, the very salary for which has been frozen by the Bank at the behest of the respondent-financier.
7. A bare perusal of the documents handed over today shows that there is nothing to indicate that the purported forwarding letter was ever handed over or served on the petitioner at any point of time.
8. There is neither any postal receipt nor any signature of the petitioner or anything else to indicate that even any effort to so serve was taken on the part of the financier or the arbitrator.
9. The letter itself is undated, although the signature of the Advocate of the financier is accompanied by a date, the date being May 4, 2023.
10. Next coming to the purported order under Section 17 of the 1996 Act, the said order is as cryptic and devoid of reason as possible.

11. The order is set out verbatim below:

“As per the agreement claimant preferred this arbitration agreement before the Ld. Arbitrator as per agreement dated 10.03.2017 and arbitration notice dated 14.01.2023 and the said Kapil Deo Rajwar did not turned of the previous notice of minutes and hence today is fix for hearing of the interim order.

On perusing all the materials and the agreement the order is passed under Section 17 the following order as follows:

For a direction to the Branch Manager, P.N.B. Mechua Bazar Branch of 168d, Keshab Ch Sen Street, Kolkata-700073, S.B.I. Account No.0343011075694 to freeze and hold the said account of Kapil Deo Rajwar till reliazation of the loan amount of Rs.4,00,000/- and cost herein.

Next date fix for written objection of the O.P. if any to be filed on 06.06.2023 in the same date time and venue of the Arbitration sitting.”

12. Thus, not only is no reason for passing the order reflected there, no details whatsoever of the agreement and the surrounding circumstances justifying passing such serious *ex parte* order, freezing the bank account of a financially indigent person appears within the four corners of the order. Even the name of the Bank in respect of the account has been mentioned erroneously.

13. Thus, the said order is in palpable violation of all norms of natural justice, tainted by non-application of mind and cannot but be said to have been

passed within the purview of Section 17 of the 1996 Act.

14. The hands of the writ court, as rightly argued by learned counsel for the petitioner, are not bound by mere technicalities.
15. Although the appropriate remedy against an order passed under Section 17 of the 1996 Act, under normal circumstances, is under Section 37 of the said Act, I fail to convince myself that the order, a purported copy of which has been handed over today, comes within the purview of a legitimate order under Section 17 of the 1996 Act, since it palpably flouts all parameters of such an order in terms of the said Section.
16. Thus, having held that the order under Section 17 is passed without authority, the same is a nullity and the respondent-Bank is not bound by the communication of the respondent-financier to comply with such order.
17. Accordingly, it is hereby held that the purported order passed under Section 17 dated May 4, 2023, being palpably passed without jurisdiction, is a nullity in the eye of law and is avoidable by all concerned.
18. As a necessary corollary, the decision of the Bank to freeze the account of the petitioner is based on a nullity and is hereby set aside.

19. Hence, WPA 24020 of 2023 along with CAN 1 of 2024 are disposed of by setting aside and quashing the action of the respondent-Bank in freezing the salary account of the petitioner bearing SBI Account No.0343011075694 and directing the respondent-Bank to permit the petitioner to commence operating the account again with immediate effect.
20. For the purpose of compliance of this order, the Bank and all concerned shall rely upon the server copy of the order without insisting upon prior production of a certified copy.
21. There will be no order as to costs.
22. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)