

W.P.A. No. 25012 of 2023
with
IA No. C.A.N. 1 of 2024

Puspa Bandyopadhyay
Vs.
Union of India & Ors.

Mr. Tanmoy Mukherjee,
Mr. Arkadipta Sengupta,
Ms. Aayushi Mukherjee
...for the applicant

Mr. Ram Krishna Bhattacharyya,
Mr. Suddhasatva Banerjee,
Mr. Kaushik Choudhury,
Ms. Busra Khatun,
Mr. Abhishek Kabir
...for the writ petitioner

Mr. Puspendu Chakraborty
...for respondents- IOCL

1. The applicant seeks modification of the order dated January 25, 2024.
2. Learned counsel for the applicant submits that no notice of upgradation of the matter was given to the applicant. As such, the *ex parte* order passed behind the back of the applicant ought to be recalled.
3. It is further pointed out that the applicant has been mentioned as an accused person in paragraph 5 of the said order, which casts a stigma on the applicant.

4. Thirdly, it has been mentioned in the order that the respondent nos. 2 to 5 in the writ petition, if they deem necessary, shall give a hearing to the applicant, whereas the right of hearing is an absolute right of the applicant since the complaint-in-question pertains to the applicant himself.

5. Learned counsel appearing for the respondent nos. 2 to 5 in the writ petition submits that no notice of upgradation was given to him as well.

6. That apart, it is argued that on the substance of the complaint, several arguments could be advanced by the respondent nos. 2 to 5.

7. Learned counsel for the writ petitioner submits that the order is innocuous in nature and, as such, need not be recalled.

8. Heard learned counsel for the parties.

9. Learned counsel for the applicant has placed reliance on a judgment of this Court in *Shambhu Malakar vs. Union of India*, reported at 2023 SCC Online Cal 389, where in similar circumstances, it is submitted, this Court had held that the writ petitioner does not have locus standi.

10. A perusal of the said judgment, however, indicates that in the said writ petition, the petitioner had sought execution of a fresh LPG (Liquefied Petroleum Gas) distributorship business of the BPCL (Bharat Petroleum Corporation Limited) in favour of the petitioner. Thus, the cited judgment was in respect of a substantial relief sought by the writ petitioner therein, where it was held that the writ petitioner does not have locus standi.

11. As opposed to the same, in the present case, the writ petitioner has merely alleged that a complaint of the writ petitioner was not being decided by the respondent nos. 2 to 5, which was directed to be decided by the said authorities.

12. Hence, the question of locus standi is not germane since the complainant, being the writ petitioner himself, had sufficient locus standi to prefer such limited challenge.

13. Insofar as the expression “accused” is concerned, the same does not cast any stigma. The term “accused” merely means that an allegation has been made against the person, which has actually been made in the complaint of the writ petitioner.

14. Inasmuch as non-service of notice is concerned, although it is right that for the sake of propriety, the writ petitioner ought to have given advance notice before the matter was mentioned for upgradation, however, the non-service of such notice cannot be a sufficient ground to have the order recalled, particularly in view of the innocuous nature of the directions passed in the said order. That apart, it is well-settled that publication of a matter in the cause list is sufficient notice.

15. During hearing, learned counsel for the respondent nos. 2 to 5 submits that a committee has been formed pursuant to the order of this court, which will decide on the complaint of the writ petitioner.

16. It is expected that although in the order under recall it was mentioned that if the respondent nos. 2 to 5 “deem it necessary” a hearing shall be given to the writ petitioner as well as the accused person, for the ends of justice the said observation should be read as *a hearing shall be mandatorily given to the writ petitioner as well as the present applicant and any other accused person, if any.*

17. C.A.N. 1 of 2024 is disposed of in the light of the above observations.

18. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)