

25.03.2025

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FMA 396 of 2025

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IA No.: CAN No.1 of 2025

M/s Eastern Coalfields Limited

– *Versus* –

Rahman Mia & Others

Mr. Manik Das

... for the Appellant.

Mr. Partha Ghosh,

Mr. Amal Kumar Datta,

Ms. Simran Surekha,

Mr. Debashis Das,

Mr. Bratin Suin

... for the Writ Petitioner/

Respondent no.1.

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 27th January, 2025 passed by the learned single Judge in the writ petition, being WPA 1866 of 2025.

Mr. Das, learned advocate appearing for the appellant being M/s Eastern Coalfields Limited (in short, ECL) submits that a disciplinary proceeding was initiated against the writ petitioner/respondent no.1 herein, namely, Rahman Mia (in short, Rahman) by a chargesheet dated 24th February, 2023. The same was challenged by Rahaman in an earlier writ petition being WPA 9759 of 2023 but on 4th December, 2023 the learned single Judge found it fit not to interfere with the chargesheet at that stage. The said order was carried in appeal being FMA 272 of 2024 but the same was also dismissed. In view thereof, Rahaman could not have challenged the second

show cause notice pertaining to the self-same disciplinary proceeding moreso when he had also raised an industrial dispute on the self-same issue before the Regional Labour Commissioner (Central), Asansol and that as such, the writ petition itself was not maintainable. Such arguments, as urged, were glossed over by the learned single Judge and no specific finding was returned on the same.

He submits that by the order impugned the appellant had been restrained from taking a final decision on the basis of the second show cause notice and in view thereof, it would be an impossibility to complete the disciplinary proceeding against Rahaman, who is due to retire this year.

Mr. Ghosh, learned advocate appearing for Rahaman denies and disputes the contention of Mr. Das and submits that by the order impugned no prejudice has been caused to the appellant.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears from the order impugned that the learned single Judge has kept the point of maintainability open to be decided at the time of final hearing upon exchange of affidavits. Furthermore, the learned single Judge has also allowed ECL to proceed on the basis of the second show cause notice impugned in the writ petition with opportunity to Rahaman to file his response, without

prejudice to his rights and contentions and directed that action that may be taken by the appellant in terms of the second show cause notice shall abide by the result of the writ petition.

In the said conspectus and to rule out any confusion, we clarify the order impugned to the effect that the appellant would be at liberty to take a final decision on the second show cause notice upon granting an opportunity to Rahaman to file his response. However, such final decision taken by the appellant shall be kept in a sealed cover and shall not be published or internally circulated among the officials of the appellant without the express leave of the learned single Judge.

With the above observations and directions, the appeal and the connected application are disposed of.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)