

D/L 03
03.04.2025
Court No.14
PRADIP

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 4252 of 2025

Samresh Kumar & Ors.

Vs.

Deputy Director General, Mines Safety (Additional
Charge), Eastern Zone & Ors.

Mr. Shyamal Sarkar, Sr. Adv.
Mr. Sankarsan Sarkar
Mr. Ayan Dutta
Mr. Abhishek Jain

...for the petitioners.

Mr. Ashok Prasad
Mr. Atarup Banerjee

...for the respondent nos. 1 & 2.

1. The petitioners claim to be senior officers of the West Bengal Power Development Corporation Limited and are employed at Gangaramchak and Gangaramchak-Bhadulia Coal Mine. The petitioner no. 1 is the agent, petitioner no. 2 is the Manager, petitioner no. 3 is the Assistant Manager/Blasting Officer, petitioner no. 4 is the Shot Firer/Blasting Overman and the petitioner no. 5 is the Contractor/CEO (Miner Developer and Operator) of Gangaramchak Mining Pvt. Ltd.
2. The petitioner nos. 3 and 5 already expressed their intention not to proceed with the writ petition which has been recorded in the order dated 2nd April, 2025. The writ petition is being proceeded by petitioner nos. 2 & 5 only who claim to be aggrieved by the issuance of show cause notice by the Additional Director General holding additional charge of the mines on 31st January, 2025.

3. The first point of attack is that the show cause issuing authority does not have the jurisdiction to issue such notice.
4. In the instant case, it appears that, there has been an accident in the mine and more than eight lives were lost apart from others who received bodily physical injuries. The matter was inquired by the authority and the petitioners have been directed to show cause as to why steps will not be taken under the Mines Act, 1952.
5. According to Section 23 (1) (a) of the Mines Act, whenever there occurs in or about a mine an accident causing loss of life or serious bodily injury, the owner, agent or manager of the mine shall give notice of the occurrence to such authority in such form and within such time as may be prescribed.
6. Section 24 of the said Act prescribes that whenever any accident of the nature referred to in Section 23(1) of the Act occurs in or about a mine, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint one or more persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.
7. From the affidavit in opposition filed on behalf of the respondent, it appears that, there is a gazette notification appointing an inspector in accordance with Section 5 (1) of the Act. No document has been annexed and/or averment made in the affidavit in opposition with regard to appointment of the competent person to hold the inquiry in accordance with Section 24 of the Act.

8. In the absence of a competent person to hold inquiry, the inquiry allegedly conducted by the authority and the subsequent step directing the petitioners to file show cause cannot stand in the eye of law.
9. The petitioners have raised other issues also in the writ petition with regard to the pre-conceived mind set of the authority, violation of principles of natural justice and the fact that no offence has been disclosed in the show cause notice but, as on the very first point, the Court is convinced that the authority could not have issued a show cause notice to the petitioners the Court is not commenting on the other issues raised by the petitioners.
10. The Court is of the opinion that the impugned notice dated 31st January, 2025 directing the petitioners to reply to the show cause cannot be held to be valid or in accordance with law. The same is, accordingly, set aside.
11. It will, however, be open for the respondent authority to take steps in the matter in accordance with law, if so advised.
12. The writ petition stands disposed of.
13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all the requisite formalities.

(Amrita Sinha, J.)