

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27845 of 2024

RRW Logistics Private Limited
v.
The State of West Bengal & Ors.

Mr. Rishabh Ahmad Khan
... For the petitioner

Mr. Rajarshi Basu
... For the State respondents

The writ petitioner assails the proceedings initiated by the respondent no.3 under Rule 4(i), (ii) and (iii) of the West Bengal Forest Produce Transit Rule 1959 and Section 52 of the Indian Forest Act, 1927 read with the West Bengal Amendment 1988 (hereinafter referred to as “the said Act of 1927”).

The petitioner submits that his vehicle has been illegally seized and that the notice of show cause dated December, 21, 2022 issued by the Authorized Officer, Uttar & Dakshin Dinajpur & Divisional Forest Officer, Raiganj Division, is one which could not have been issued by the said authority, inter alia, on the ground that the seizure was improper.

Before this Court could enter into the merits of the challenge thrown, the learned advocate appearing for the State respondents submits that the writ petition

itself is not maintainable, inasmuch as the authority, being Authorized Officer, Uttar & Dakshin Dinajpur & Divisional Forest Officer, Raiganj Division, who has issued the show cause notice, has already passed an order dated November 22, 2023 and such order is appealable in terms of Section 59D of the said Act of 1927.

He further submits that the challenge thrown to the validity of the proceedings under the said Act of 1927 by way of a writ petition under Article 226 of the Constitution of India is improper. He submits that the petitioner should have filed a petition under Article 227 of the Constitution of India if it all the petitioner wished to mount a challenge thereto and not by filing a writ petition under Article 226 of the Constitution of India.

Learned advocate for the State respondents disputes the submission made by the learned advocate for the petitioner that there has been any illegality in the seizure or that the show cause notice has not been validly issued.

This Court is of the view that since the issuance of the order dated November 22, 2023 by the Authorized Officer, Uttar & Dakshin Dinajpur & Divisional Forest Officer, Raiganj Division, has given rise to a fresh cause of action and such order is

appealable in terms of Section 59D of the said Act of 1927, it would be appropriate for this Court to leave the petitioner free to avail of the statutory remedy of appeal.

The Court, however, does not agree with the submission made by the learned advocate on behalf of the State authorities that a petition under Article 226 of the Constitution of India seeking quashment of a proceeding initiated by or an order passed by the Authorised Officer would not be maintainable.

An order passed by a civil court would not be amenable to the writ jurisdiction of the High Court under Article 226 of the Constitution of India (See *Radhey Shyam v. Chhabi Nath* (2015) 5 SCC 423).

It is not so for a quasi judicial authority.

In the case at hand, the impugned proceedings have been initiated by the Divisional Forest Officer who is the “Authorised Officer” within the meaning of Section 59A of the said Act of 1927. The Authorised Officer is not even a court. Section 59A of the said Act of 1927 provides that where the Authorised Officer is satisfied that a forest offence has been committed in respect of any property, he may order confiscation of such property.

Section 59B of the said Act of 1927 embodies the principles of natural justice and provides for issuance of notice to the owner or person from whom the property in question has been seized (hereafter person concerned) as also for considering his objections if any, before ordering confiscation of any such property.

It is settled that in order to be a court, the concerned authority must have the power and machinery to summon witnesses, compel production of documents and above all there must be a *lis* inter parties (See *Virinder Kumar Satyawadi v. State of Punjab*, 1955 (2) SCR 1013). It is equally settled that courts are established by the State and are entrusted with the State's inherent judicial power (See *Union of India v. Madras Bar Association*, (2010) 11 SCC 1).

Nothing in the said Act of 1927 authorises the Authorized Officer to take evidence. The officer does not even have trappings of court. There is no *lis* presented before it. The Authorised Officer has no inherent power to dispense justice and it has limited power to order confiscation in terms of Section 59A and 59B of the said Act of 1927. In such view of the matter, the submission of the learned Advocate for the respondent is not accepted.

Learned advocate appearing for the petitioner submits that the order dated November 22, 2023 has

not been communicated to the petitioner, but such submission of the said learned advocate is disputed by the learned advocate appearing for the State respondents.

Since there is a time-frame of 30 days within which appeal has to be carried against an order passed under Section 59A of the said Act of 1927, the petitioner shall be entitled to condonation of delay of the entire period during which the writ petition remained pending before this Court.

In view of the submission made by the petitioner that the order dated November 22, 2023 was not served upon him, if an appeal filed by the petitioner within 30 days from today, the same will be treated to be filed within time. However, in case the Authorized Officer, Uttar & Dakshin Dinajpur & Divisional Forest Officer, Raiganj Division, is able to demonstrate that the petitioner did not receive a copy of the said order dated November 22, 2023 earlier in point of time, the petitioner would not be entitled to the benefit of the order to the extent the same directs treating the appeal as within time.

With the aforesaid observation, WPA 27845 of 2024 stands disposed of.

It is recorded that a copy of the order dated November 22, 2023 passed by the Authorized Officer,

Uttar & Dakshin Dinajpur & Divisional Forest Officer, Raiganj Division, has already been handed over to the learned advocate for the petitioner in Court today.

The instruction handed up to the Court by the learned advocate for the State respondents be kept with the record.

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

(Om Narayan Rai, J.)