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ORDER SHEET
WPO No.856 of 2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

CHEN KUAM TAIN
VS
THE STATE OF WEST BENGAL & ORS.

BEFORE:
THE HON'BLE JUSTICE AMRITA SINHA
Date: 5th February, 2025.

Appearance:
Mr. Sabyasachi Chowdhury, Adv.
Mr. Santa Chakraborty, Adv.
Mr. Abu Siddique Mallick, Adv.
...For the Petitioner.

Mr. Tanay Chakraborty, Adv.
Mr. Suddhadev Adak, Adv.
...for the State.

1. The order of the Excise Commissioner dated 11th December, 2023 affirming the order passed by the Collector of Excise, Kolkata (South) is impugned in the instant writ petition.
2. It appears that the Collector of Excise passed certain order against the petitioner relying upon an enquiry report and a rough sketch map. The aforesaid two documents were not served upon the petitioner. In the impugned order the Excise Commissioner admits the lapse on the part of the Collector of Excise, but at the same time goes on to affirm the order passed by the Collector.
3. It has been submitted that the said two very vital documents were not served upon the petitioner even after order was passed by the Excise Commissioner for serving the said documents. The petitioner was not in a position to make submission on the enquiry report and the rough

sketch map. The petitioner alleges that there has been violation of principles of natural justice.

4. Learned advocate representing the respondents opposes the prayer of the petitioner. It has been submitted that the impugned order is an appealable one. The petitioner does not have any vested right to obtain licence. It has been denied that there has been violation of the principles of natural justice and submitted that all documents were handed over to the petitioner in terms of the order passed by the Excise Commissioner.
5. From records it appears that before the Collector of Excise, the petitioner did not have any opportunity to make submission on the enquiry report and a rough sketch map which were used against the petitioner as those documents were not served upon him. The documents being vital documents, ought to have been served upon the petitioner prior to any order being passed.
6. In view of the above, both the orders passed by the Collector of Excise and the Excise Commissioner are set aside. Let the enquiry report and the rough sketch map be immediately served upon the petitioner.
7. The matter is remanded back to the Collector of Excise for re-hearing of the same afresh after giving reasonable opportunity of hearing to the petitioner at the earliest.

8. It is made clear that this Court has not entered into the merits of the case and all points are left open to be decided by the respondent authority at the time of consideration.
9. The writ petition stands disposed of.
10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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