

IN THE HIGH COURT AT CALCUTTA

[CIRCUIT BENCH AT PORT BLAIR]

...

WPA/341/2022

M/s. Fairmacs Shipping & Transport Service Private
Limited ... Petitioner

Vs.

The Lieutenant Governor and others ... Respondents

Mrs. Anjili Nag ...for the Petitioner
Mr. Shatadru Chakraborty ...for the respondents

September 26, 2022

[MAM]

Item No. 5

The petitioner challenges a show cause notice dated 11th July, 2022 imposing demurrage charges issued by the Chief Port Administrator. Mrs. Nag, learned advocate for the petitioner, contends that the notice is without jurisdiction and as such no step can be taken in furtherance thereof.

Mr. Chakraborty, learned advocate, representing the respondents on the other hand submits that it was within competence of the authority to issue said show cause notice which is based on a notification dated 29th May, 2019 appearing at page 60 of the writ petition. He relies upon the circulars dated 11th January, 1999 and 25th July, 2018 by which the Port Management Board has been authorized by the Central Government to prescribe the port related charges.

The question however remains to be decided that when the Parliament by way of enacting the Indian Ports Act, 1908 delegated the power to prescribe the port related

charges to the Central Government, whether it is within the competence of the Central Government to sub delegate such power to the Port Management Board.

Prima facie, I am not satisfied with the sub-delegation of such power as has been done by the Union.

In that view of the matter, the writ petitioner shall participate in the proceedings following the show cause notice dated 11th July, 2022, but the Port Management Board shall not pass any final order without the leave of this Court. The petitioner will not ask for any unnecessary adjournment and cooperate with the proceedings.

The time to file affidavit-in-opposition by the respondents is extended by two weeks. The petitioner will be at liberty to use affidavit-in-reply thereto by one week thereafter.

List this matter after three weeks before the next available Circuit Bench under the heading "For Orders".

(Kausik Chanda, J.)