IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

BEFORE:-

THE HON'BLE JUSTICE SHAMPA SARKAR
&
THE HON'BLE JUSTICE ARJUN RAY MUKHERJEE

MAT No. 709 of 2025
With
CAN No. 1 of 2025

Deputy Director General,
Mines Safety (Additional Charge),
Eastern Zone and Anr.
vs.
Sri Samresh Kumar & Ors.

For the Appellant	**:** Mr. Dhiraj Kumar Trivedi, Ld. ASGI Mr. Ashok Prasad, Adv. Ms. Swapna Jha, Adv.
For the Respondent No. 2 & 5	**:** Mr. Shyamal Sarkar, Sr. Adv. Mr. Sankarsan Sarker, Adv. Mr. Ayan Dutta, Adv. Mr. Abhishek Jain, Adv.
Judgment Reserved on	**:** 06.10.2026
Judgment pronounced on	**:** 07.10.2026
Judgment uploaded on	**:** 07.10.2026

Shampa Sarkar, J. :-

1. The appeal arises out of an order dated April 3, 2025, passed in WPA 4252 of 2025. The learned Single Judge disposed of the writ petition, upon holding that the enquiry conducted by the appellants and the subsequent steps taken in directing the writ petitioners/respondents to answer to a show-cause notice was not permitted in law. With regard to

the other allegations of the writ petitioners, the learned Single judge held that as the appellant No. 1 did not have any authority to issue the show cause notice, further adjudication on the other allegations of violation of the principles of natural justice and issuance of a close minded show cause notice would not be necessary.

2. According to Her Lordship, only Section 24 of the Mines Act, 1952 (hereinafter referred to as the said Act), permitted an enquiry by the court of enquiry. In the event the Central Government was of the view that, a formal enquiry into the causes of and circumstances attending an accident in a mine ought to be held, steps could be taken under Section 24 of the said Act and not under Section 23 thereof. If such court of enquiry was required to be constituted, only the Central Government could appoint a competent person to hold such enquiry and could also appoint one or more persons possessing legal or special knowledge to act as assessor or assessors. Although from the affidavit-in-opposition, the fact that the appellant No. 1 was appointed as an Inspector was available, no document could be produced by the appellants indicating appointment of any competent person to hold an enquiry under Section 24 of the said Act. Under such circumstances, the authority of the appellant to issue the show cause notice was found to be legally impermissible.

3. Mr. Dhiraj Kumar Trivedi, learned ASGI submitted that the learned Single Judge failed to take into account the provisions of Section 23 of the said Act. According to Mr. Trivedi, The Mines Act, 1952 was a complete code and it was promulgated to amend and consolidate the laws relating to regulation of labour and safety in mines. Section 7 of the said Act,

empowered an Inspector to make such examination and enquiry as he thought fit, in order to ascertain whether the provisions of the Act, Rules, Regulations and Bylaws were being followed.

4. The said Inspector was entitled to exercise powers that were prescribed by Regulations. He referred to Regulation 8 of the Coal Mines Regulations 2017 (hereinafter referred to as the said Regulations), to contend that, in the event of any accident causing loss of life or serious bodily injury in a mine, the owner, agent or manager was bound to report the same to the Regional Inspector within 24 hours and also give notice in the form as may be specified by the Chief Inspector for the said purpose, to the District Magistrate, the Chief Inspector and the Regional Inspector, as the case would require.

5. In this context, it was urged that an Inspector could discharge the functions of a Regional Inspector and the definition of Inspector and Regional Inspector should be read interchangeably. Under such circumstances, when the Act and the Rules required reporting of any accident which caused death or bodily injury to the Inspector of mines, the learned Judge could not have held that the Inspector was devoid of any power or authority under the law to make the necessary enquiry and issue the show-cause notice to the writ petitioners, thereby, asking them to show cause as to why steps should not be taken under the prevailing law. Mr. Trivedi next submitted that Section 23 of the said Act specifically dealt with the nature of enquiry to be held by an Inspector.

6. It was submitted that, Her lordship had ignored the provisions of the Section 23 of the said Act. The language of Section 23 made the enquiry

mandatory, unlike Section 24 of the said Act. Under Section 24, the Government may if it was of the opinion that a formal enquiry was necessary to look into the cause or circumstances of the accident, appoint a competent person to hold such enquiry. Whereas, Section 23 provided that, in the event of an accident causing loss of life or bodily injury in the mines, the owner or the agent or manager 'shall' give notice of the occurrence to the authority in such form and in such manner as may be prescribed by the Rules and Regulations. Subsection 1-A, of the said Act provided that, the information 'shall' be entered in the register in the prescribed form and copies of such entries 'shall' be furnished to the Chief Inspector once in a quarter. Under subsection 2, the Inspector was mandated by law to make the enquiry within two months from the receipt of notice. The expression used was 'shall' and not 'may'. Mr. Trivedi submitted that the enquiry under Sections 23 and 24 of the said Act were distinct and separate, even if the same arose out of the self-same accident.

7. Learned Senior Advocate further submitted that, under Section 72-C of the said Act, any person who had contravened the law was liable to be punished. Section 73 dealt with the general provisions for disobedience of orders and Section 75 dealt with prosecution of owner, agent or manager. Under the said Sections, the Inspector was empowered to institute a prosecution before the jurisdictional court. Thus, the scheme of the Act was explained in great detail by Mr. Trivedi to persuade us to hold that Her Lordship had misappreciated the law and passed an erroneous order.

8. Mr. Shyamal Sarkar, learned Senior Advocate for the writ petitioners submitted that an enquiry under Section 23 was already over. It was the categorical statement of the appellants in the affidavit-in-opposition filed before the learned single Judge that, after conclusion of the enquiry the notice was issued by the Inspector, asking the writ petitioners to show cause as to why steps would not be taken against them in terms of the said Act. The Inspector could not be an adjudicator. Any adjudication in respect of an accident causing death or bodily injury would be governed by Section 24 of the said Act. The appellant No. 1 could not act as a prosecutor and a Judge.

9. According to Mr. Sarkar, the Central Government also held an enquiry, but no further steps were taken thereafter. No report of such enquiry was ever handed over. The writ petition was filed challenging the authority of the appellant No. 1 in issuing the show cause notice and also the mode and manner in which he proceeded with the show cause notice. According to Mr. Sarkar, the notice was issued on the basis of an enquiry. Certain documents were mentioned in the said notice. Copies of those documents should have been served upon the writ petitioners. Mr. Sarkar submitted that, a point of law with regard to the jurisdiction of the authority to issue the show cause notice could be raised at any time and also in a court of appeal. Thus, Mr. Trivedi's contention that the writ petition was moved on the ground of violation of the principles of natural justice, but the point of jurisdiction was taken later, was misconceived.

10. According to Mr. Sarkar, the appellant No. 1 acted beyond his jurisdiction. The statute did not support such action. At best, he could

have filed a report before the Central Government and allowed the Central Government to take such decision as the Government deemed fit and proper under Section 24. In this case, the Central Government did not deem it necessary to hold an enquiry under section 24 of the said Act. The appellant No. 1 did not have any power of adjudication under the law. Resort to Section 75 of the said Act could be taken, only upon compliance of the legal parameters. Supporting the order impugned, it was submitted by Mr. Sarkar that the learned Single Judge rightly held that, adjudication into the issues which led to the accident could only be done in terms of Section 24 of the said Act and not under any other provision of law.

11. We have considered the rival contentions of the parties. Admittedly, the enquiry under Section 23 of the said Act is over. We do not agree with Her Lordship's finding to the extent that an enquiry contemplated under the said Act, would only be an enquiry under Section 24 of the Act. The powers and functions of an Inspector are governed by the said Act. As per the definition, Inspector means an Inspector of Mines appointed under the Act and would include the District Magistrate while exercising any of the powers or performing any of the duties of an Inspector under the said Act. Section 7 deals with the powers of the Inspector of Mines and the same is quoted below:-

> **"7. Powers of Inspector of Mines-** The Chief Inspector may any Inspector may-
>
> (a)make such examination and inquiry as he thinks fit, in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made there under are observed in the case of any mine;

(b) with such assistants, if any, as he thinks fit, inspect and examine any mine or any part thereof at any time by day or night:

Provided that the power conferred by this clause shall not be exercise in such a manner as unreasonably to impede or obstruct the working of mine.

(c) examine into, and make inquiry respecting, the state and condition of any mine, or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine and all matters and things connected with or relating to the health, safety and welfare of the persons employed in the mine, and take whether on the precincts of the mine or elsewhere statements of any person which he may consider necessary for carrying out the purpose of this Act;

(d) exercise such other powers as may be prescribed by regulation made by the Central Government in this behalf.

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself,

(2) The Chief Inspector and any Inspector may, if he has reason to believe as a result of any inspection examination or inquiry under this section, that an offence under this Act has been or is being committed, search any place and take possession of any material or any plane section register other records appertaining to the mine and the provisions of the Code of Criminal Procedure 1973 shall, so far as may be applicable, applied to any search or seizure made under this Act as to apply to any search or seizure made under the authority of a warrant under section 94 of the code."

12. The said provision empowers the Inspector to enquire into the condition of mines, to ascertain whether the provisions of the Act, Regulations and Rules were being observed. An inquiry under the said provision is essentially on the safety, health and welfare of the persons employed in mines etc. An Inspector can also exercise powers as may be prescribed by Regulations that may be framed by the Central Government in this behalf. Sub-section 2 of Section 7 provides that, in the event the Chief Inspector or the Inspectors believe that an offence under the said Act had been committed and search may be required, including taking

over possession, in that event he could apply for issuance of a warrant under the provisions of the Code of Criminal Procedure.

13. Section 9 is another empowering Section and the same is quoted below:-

> **"9. Facilities to be afforded to inspectors -** Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, Inspection; survey, measurement, examination or inquiry under this Act.
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> "6A. Facilities to be provided for occupational health survey-
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> (i) The Chief Inspector or an Inspector or other officer authorised by him in writing in this behalf, may at any time during the normal working hours of the mine or at any time by day or night as may be necessary undertake safety and occupational health survey in a mine after giving notice in writing to the manager of the mines and the owner, agent or manager of the mine shall afford all necessary facilities (including facilities for the examination and testing of plant and machinery for the collection of samples and other data pertaining to the survey and for the transport and examination of any persons employed in the mine chosen for the survey) to such Inspector or officer.
>
> (2) Every person employed in a mine who is chosen for examination in any safety and occupational health survey under sub-section (10 shall present himself for such examination and at such place as may be necessary and shall furnish all information regarding his work and health in connection with the said survey.
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> (3) The time spent by any person employed in a mine who is chosen for examination in the safety and occupational health survey, shall be counted towards his working time, so however that any overtime shall be paid at the ordinary rate of wages.
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> Explantion: For the purpose of this sub-section, "ordinary rate of wages" means the basic wages plus any dearness allowance and underground allowance and compensation in case including such compensation, if any accruing through the free issue of foodgrains and edible oils as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus (other than a bonus given as incentive for production) or any compensation accruing through the provision of amenities such as free housing, free supply of coal, medical and educational facilities, sickness allowance, supply of kerosen oil baskets, tools and uniforms.
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> (4) Any person who, on examination under sub-section (2) is found medically unfit to discharge the duty which he was discharging in a mine immediately before such presentation shall be entitled to

undergo medical treatment at the cost of the owner, agent and manager with full wages during the period of such treatment.

(5) If, after the medical treatment, the person referred to in sub-section (4) is declared medically unfit to discharge the duty which he was discharging in a mine immediately before absenting himself from the said examination and such unfitness is directly describable to his employment in the mine before such presentation, the owner, agent and manager shall provide such person with an alternative employment in the mine for which he is medically fit;

Provided further that where such person decides to leave his employment in the mine, he shall be paid by the owner, agent and manager a lump sum amount by way of disability compensation determined in accordance with the rates prescribed in this behalf.

(6) The rates under the provision sub-section (5) shall be determined having regard to the monthly wages of the employees, the nature of disabilities and other related factors."

14. It provides that, every agent or owner or manager of a mine should afford the Chief Inspector and every Inspector, all reasonable facilities for making entry, inspection, survey, measurement, examination or enquiry, under the Act. Apart from the general powers which we have discussed hereinabove, a specific duty has been assigned to the Inspector to make an enquiry into the occurrence of an accident upon receipt of a notice under Section 23(1) of the said Act. Section 23 is quoted below:-

"**23. Notice to be given of accidents.—**

(1)Whenever there occurs in or about a mine—

(a)an accident causing loss of life or serious bodily injury, or

(b)an explosion, ignition, spontaneous heating, outbreak of fire or irruption or inrush of water or other liquid matter, or

(c)an influx of inflammable or noxious gases, or

(d)a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline, or

(e)an overwinding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised, or

(f)a premature collapse of any part of the workings, or

(g)any other accident which may be prescribed,

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, and he shall simultaneously post one copy of the

notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials, and shall ensure that the notice is kept on the board for not less than fourteen days from the date of such posting.

(1A)Whenever there occurs in or about a mine an accident causing reportable injury to any person, the owner, agent or manager of the mine shall enter in a register such occurrence in the prescribed form and copies of such entries shall be furnished to the Chief Inspector once in a quarter.

(2)Where a notice given under sub-section (1) relates to an accident causing loss of life, the authority shall make an inquiry into the occurrence within two months of the receipt of the notice and, if the authority is not the Inspector, he shall cause the Inspector to make an inquiry within the said period.

(3)The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-sections (1) and (1A) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding twenty-four hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1) or sub-section (1A), as the case may be.

(4)A copy of the entries in the register referred to in sub-section (3) shall be sent by the owner, agent or manager of the mine, on or before the 20th day of January in the year following that to which the entries relate, to the Chief Inspector.

(5)Whenever there occurs in or about a mine an accident causing loss of life or serious bodily injury to any person, the place of accident shall not be disturbed or altered before the arrival or without the consent of the Chief Inspector or the Inspector to whom notice of the accident is required to be given under sub-section (1) of section 23, unless such disturbance or alteration is necessary to prevent any further accident, to remove bodies of the deceased or to rescue any person from danger, or unless discontinuance of work at the place of accident would seriously impede the working of the mine:

Provided that where the Chief Inspector or the said Inspector fails to inspect the place of accident within seventy-two hours of the time of the accident, work may be resumed at the place of the accident."

15. We find that the expression shall in sub-section 1A and 2, support the contention of Mr. Trivedi to the extent that, upon receipt of notice of an accident causing loss of life, the Inspector was bound to make an enquiry into the occurrence within two months from receipt of notice. However, we do not find from Section 23 that after conclusion of the enquiry, the

Inspector was entitled to issue a show-cause notice, by calling upon the writ petitioners to answer as to why steps would not be taken under the law, for contravention of the specific provisions of the Act and the Regulations.

16. The scope of enquiry under Section 23(1) is limited to the occurrence. The statute mandates that whenever an incident or accident in a mine which causes loss of life or bodily injury occurs, the place of the accident should not be disturbed or altered till the arrival of, or without the consent of the Inspector to whom the notice of the accident has been given. Thus, in our view, the said section does not empower the Inspector to be an adjudicator. Section 24 of the said Act on the other hand provides that, if a notice under Section 23(1) is received, the Central Government may, if it is of the opinion that a formal enquiry into the causes or circumstances attending the accident should be held, appoint a competent person having special knowledge for the purpose, to make an enquiry. The said enquiry has been termed as a 'Court of Enquiry' and the competent person has been conferred with the powers of a Civil Court. Any person holding such enquiry may also exercise powers of an Inspector under the Act, if he deems it necessary or expedient for the purpose of enquiry. The person holding such enquiry shall make a report to the Central Government, stating the causes of the accident and its circumstances, by adding any observation which he or any of the assessors may think fit to make.

17. Section 24 is quoted below:-

> "**24. Power of Government to appoint court of enquiry in cases of accidents**:-

(1) When any accident of the nature referred to in any of the clauses of sub-section(1) of sections 23 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.
(2) The person appointed to hold such an inquiry shall have all the powers of a civil court under the Code of Civil Procedure 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects.
(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.
(4) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make."

18. Thus, Her Lordship's finding that Section 24 was the legal provision under which an adjudication could be made by the competent person appointed by the Central Government, is correct. The person so appointed enjoys the powers of an Inspector and also that of a Civil Court with regard to enforcing attendance of witnesses, compelling production of documents and material objects etc.

19. Under such circumstances, if we go by the show-cause notice and contents thereof, we find that the allegations against the writ petitioners were contravention of Section 18 of the Act and Regulation 39 of the said Regulations.

20. Section 18 of the Act is quoted below:-

"**18. Duties and responsibilities of owners, agents and managers:-**
(1) The owner and agent of every mine shall each be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Act and the regulations, rules, bye-laws and orders made thereunder.
(2) The responsibility in respect of matters provided for in the rules made under clauses (d), (e) and (p) of section 58 shall be exclusively

carried out by the owner and agent of the mine and by such person (other than the manager) whom the owner or agent may appoint for securing compliance with the aforesaid provisions.

(3) If the carrying out of any instructions given under sub-section (2) or given otherwise than through the manager under sub-section(3) of section 17 results in the contravention of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder, every person giving such instructions shall also be liable for the contravention of the provision concerned.

(4) Subject to the provisions of sub-sections (1), (2) and (3) the owner, agent and manager of every mine shall each be responsible to see that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the regulations, rules, bye-laws and orders made thereunder.

(5) In the event of any contravention by any person whosoever of any of the provisions of this Act or of the regulations; rules, bye-laws or orders made thereunder except those which specifically require any person to do any act or thing, or prohibit any person from doing an act or thing, besides the person who contravenes, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention:

(i) the official or officials appointed to perform duties of supervision in respect of the

provisions contravened; (ii) the manager of the mine;

(iii) the owner and agent of the mine;

(iv) the person appointed, if any, to carry out the responsibility under sub-section (2). Provided that any of the persons aforesaid may not be proceeded against if it appears on enquiry and investigation that he is not prima facie liable.

(6) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other official have been appointed in accordance with the provisions of this Act or that a person to carry the responsibility under sub-section (2) has been appointed."

21. Regulation 39 is quoted below :-

“39. Responsibilities of contractor.- (1) A contractor deployed in a mine for any work shall-

(a) establish effective ongoing communication and co-ordination between appropriate levels of supervisors, officials and senior officials of the mine prior to commencing work, which shall include provisions for identifying hazards and the measures to eliminate and control risks;

(b) ensure arrangements for reporting work related injuries and diseases, ill health and incidents among his workers while performing work in the mine;
(c) provide relevant workplace safety and health hazards awareness and training to their workers prior to commencing and as work progresses as necessary; and
(d) ensure compliance of the provisions of the Act, and the rules and regulations framed thereunder.
(2) When deploying contractors, the owner, agent and manager shall ensure that:
(a) the same safety and training requirements apply to the contractors and their workers as to the workers of the establishment;
(b) where required, only such contractors are deployed that have been duly registered or hold licenses; and
(c) the contract specific safety and health requirements as well as sanctions and penalties in case of non-compliance and such contract shall include the right for mine officials to stop the work whenever a risk of serious injury is apparent and to suspend operations until the necessary remedies have been put in place."

22. Section 18 and Regulation 39 mention the liability of the owner, agent, managers and contractors. The said Sections talk about the persons who would be held responsible for contravention of the law and what were the incidents of contravention. Duties and responsibilities of the owners, agents, managers and contractors have been spelt out under the said provisions. The said provisions are not empowering provisions for issuance of a show cause notice.

23. A show cause notice precedes a proceeding. Usually, such proceedings are either administrative or quasi-judicial. They are undertaken in order to arrive at a conclusion with regard to acts, omissions, incidents, which led to the issuance of the show cause notice. In this case, an accident in the mines resulted in loss of life. Admittedly, the appellant No. 1 had the power to make an enquiry under Section 23 of the said Act, but did not have the powers to adjudicate any issue. He would not be in a position to either enforce attendance of witnesses or compel production of documents

and material objects. The proceedings sought to be commenced by issuance of a show cause notice will be inconsequential, as the same does no have any legal sanctity. Power had been vested in the competent person appointed by the Government under Section 24 of the said Act. A High Power Committee referred to under Sections 12, 13, and 14 also enjoys similar powers.

24. Under such circumstances, the show cause notice was issued in contravention of the law and in excess of jurisdiction. We have already held that, an enquiry within the restricted parameters of Section 23, could be held by the Inspector. Such enquiry was held. The next course of action for the Inspector would be either file a report before the Central Government for initiation of proceedings under Section 24 of the said Act, or to take steps for initiation of prosecution, if permitted by the provisions of Section 75, 79, etc., of the said Act. Mr. Trivedi also could not answer our query as to the provision under which show cause could be issued.

25. According to Mr. Trivedi, an additional opportunity was being given to the writ petitioners to answer to the issues raised by the Inspector, who always reserved the right to probe deeper into the matter and find out the reasons for the accident.

26. The learned Single Judge did not err in holding that the issuance of the show cause notice was without jurisdiction. We also make it clear that, only because a reply was filed to the same and documents were being requested, such participation of the writ petitioners would not debar them from raising the issue of lack of jurisdiction of the appellant No.1, at a later point. The question of jurisdiction to issue the said show cause

notice goes to the very root of the matter. It is a question of law which can be urged at any time and even in appeal.

27. Under such circumstances, the appeal and applications are dismissed. Her Lordship has already permitted the appellants to take recourse to law as may be available under the Act, and they are free to do so.

28. Urgent Photostat certified copies of this judgment, if applied for, be supplied to the parties upon fulfilment of requisite formalities.

I Agree.

(Arjun Ray Mukherjee, J.) **(Shampa Sarkar, J.)**