

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION No. 2600 OF 2002

ORDER (Per the Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

In more or less identical circumstances in relation to the very same petitioner, a Division Bench of this Court, by its order in W.P.No.2601 of 2002 dated 24.06.2015, dismissed the writ petition as withdrawn with liberty to approach the appellate authority.

Sri S. Ravi, learned Senior Counsel appearing on behalf of the petitioner, submits that the appellate authority has not, as yet, been constituted.

The fact that the Statute, which provides for the remedy of an appeal, is still in force is not in dispute. As the remedy of an appeal is prescribed under the Statute, this Court would, ordinarily, refrain from exercising its extraordinary jurisdiction under Article 226 of the Constitution of India to entertain the writ petition, as all the questions raised in the writ petition can as well be examined by the appellate authority. If the Government has failed to appoint the appellate authority, the remedy available to the petitioner is to question the inaction of the Government in this regard. That would however, not require this Court to entertain the writ petition despite the existence of an alternative remedy.

Leaving it open to the petitioner to avail the remedy of an appeal, the Writ Petition is dismissed.

The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ

Date: 31.10.2016

A.SHANKAR NARAYANA, J

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