

10th February,
2021
(AK)
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W.P.A 3503 of 2020

Harendranath Chatterjee
Vs.
The State of West Bengal & Ors.

Mrs. Lipika Chatterjee
...For the Petitioner.

Mr. Chandi Charan De
Ms. Chandana Ghosh
...For the State.

The petitioner has challenged an order dated February 3, 2020 passed by the Block Land and Land Reforms Officer, acting in the capacity of an Authority under the Right to Information Act, 2005, refusing a particular information sought by the petitioner on the ground that the Additional Director in the rank of Commissioner, West Bengal of the D.L.R.S. and Jt. L.R.C., West Bengal, had so instructed.

Learned counsel for the petitioner submits that, despite availability of an alternative remedy by way of an appeal, since the impugned order was passed on instruction from the Additional Director in the rank of Commissioner and since the Commissioner himself is the appellate authority, such an appeal would be a fruitless exercise.

However, a functionary or authority of the Government may operate in several

statutory/administrative capacities and it is premature for the writ court to assess whether the Additional Director's instruction, as indicated in the impugned order, was valid in the eye of law.

In any event, the instruction could not have been granted in the capacity of an appellate authority under the 2005 Act, since no appeal had been preferred at all.

As such, since the petitioner has an adequate and equally efficacious alternative remedy in the form of an appeal, this court chooses to impose a self-restraint by not entertaining the writ petition.

Accordingly, WPA 3503 of 2020 is dismissed as not maintainable.

The petitioner, however, is granted liberty to approach the appropriate appellate authority against the impugned order.

If so approached, such authority will consider the contentions of the petitioner without being prejudiced in any manner by the present refusal.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)