

Item No. 138

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

02.03.2021
Ct-24

W.P.A.6087 of 2020
With
CAN 1 of 2020(Old No. CAN 4313 of 2020
CAN 2 of 2020 (Old No.CAN 5030 of 2020
CAN 3 of 2020 (Old No. CAN 5032 of 2020)
Gita Saha & Ors.
v.
The Kolkata Municipal Corporation & Ors.

Mr. Saptangshu Basu
Mr. Amiya Kumar Gayen
Ms. Shalu Gupta
Ms. Ashrulina Gayen
... for the petitioner.

Mr. Alok Kumar Ghosh
Mr. Subhangshu Panda
... for KMC.

Mr. Aniruddha Mitra
Ms. Mudrika Khaitan
... for the respondent nos. 7 & 10.

Mr. Debanjan Mukherjee
... for CESC.

Mr. Prabal Kumar Mukherjee
... for the respondent nos. 11 & 13.

This is an application praying for recalling the order dated August 4, 2020 passed by Hon'ble Justice Samapti Chatterjee (as Her Lordship then was) whereby the writ petition has been dismissed as "not pressed" on the submission of the Learned Advocate for the petitioners, that the petitioners do not wish to proceed with the present writ petition. The Court, however, was

pleased to record that the dismissal of the writ petition will not preclude the petitioners to approach the appropriate forum for ventilating their grievances.

In the instant application the petitioners have averred that they never made any submission regarding not pressing/withdrawal/non-prosecution of the writ petition.

The learned advocates appearing on behalf of all other respective parties, who were present in Court on August 4, 2020 when the matter was taken up for consideration, categorically submit that the matter was heard for a considerable period of time and as the Court was not inclined to pass any order in favour of the petitioners, the petitioners volunteered not to press the writ petition.

It is thereafter that the Court recorded that dismissal of the writ petition will not preclude the petitioners to approach the appropriate forum for ventilating their grievances, so that the petitioners are not left remediless.

The averment made by the petitioners that there was no submission regarding withdrawal or not-pressing the writ petition does not appeal to the Court. It is not uncommon that at times, the advocates appearing on behalf of the parties, take impromptu decision, on legs, as to what has to be done in a given situation. The

counsel for the petitioners on August 4, 2020 thought it best not to press the writ petition and avail the alternate remedy available to them. Accordingly, necessary order was passed therein. Turning back and making application praying for recalling the said order on the averment that such submission was not made in Court, amounts to casting aspersion on the Court itself.

I am not inclined to accept such submission made on behalf of the petitioners today.

Accordingly, the application being CAN 5030 of 2020 praying for recalling the order dated August 4, 2020 stands dismissed. CAN 5032 of 2020 stands disposed of.

Urgent xerox certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)