

30 23.12.21

Ct. No. 04

Akd

M.A.T. 721 of 2021

with

CAN 1 of 2021

Binod Kumar Singh

Vs.

The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya,

Mr. Aninda Bhattacharya.

... for the appellant.

Mr. Susanta Pal,

Ms. Ananya Neogi.

... for the State.

Mr. Washaf Ali Mondal.

... for the School.

The instant appeal has been filed assailing the order dated 1st July, 2021 passed by the Single Bench in WPA 9304 of 2021 permitting the writ petitioner to withdraw the writ petition.

At the very outset we must record that the appeal does not lie against an order withdrawing the application filed by the litigant. The learned Counsel representing the appellant was asked to communicate the decision whether the writ petitioner shall proceed with the writ petition or withdraw the same, it is recorded in the impugned order that the writ petitioner, who was physically present in Court, instructed Mr. Bhattacharya to withdraw the said writ petition, which, in fact, has been done.

Since there was no condition attached to such withdrawal nor any prayer in this regard was made, we do not find any difficulty in holding that the appeal against such order is not maintainable.

Furthermore, if there is a wrong recording of events happened before the Court, it is the duty of the writ petitioner to approach the same Court directly before such events fade from the mind of the learned Judge and not by way of an appeal, as the

Appellate Court has no opportunity to see the conduct of the proceeding nor the events happened before the Single Bench.

In view of the above, the appeal is dismissed as not maintainable.

There will however be no order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)