

29.11.2021
Court No.13
Item No.11
AP

WPA 13488 of 2021

**Piyali Tewari Dey
Vs.
The State of West Bengal and Ors.**

(Through Video Conference)

Mr. Supriyo Bose, Senior Advocate
Mr. Debajyoti Deb
Mr. Sanjoy Kumar Das

... For the Petitioner.

Mr. Anirban Roy, Government Pleader
Mr. Raja Saha
Mr. Sayan Ganguly

... For the State.

Mr. Kaushik Gupta

... For the Respondent Nos.5 & 6.

Mr. Sanjay Banerjee
Ms. Senjuti Chakrabarti

... For the Respondent No.7.

The instant writ petition is directed against an order dated 13th August, 2021 passed by the DPO, ICDS Maintenance refusing to entertain an appeal against the Tribunal, Serampore under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The appeal was rejected as not maintainable.

Mr. Supriyo Bose, learned senior counsel appearing for the petitioner submits that the Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been misinterpreted by the Tribunal to suggest that the children or the respondents in a proceeding under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 are excluded from

maintaining any such appeal. Such an interpretation, according to Counsel, is, against the general principles of common law.

This Court is of the view that Section 16 has been interpreted by a Division Bench of this Court to permit senior citizens only to maintain an appeal against the orders of Maintenance Tribunal. It is submitted by the parties that the Union is attempting to introduce amendment to the said Section. A Bill to this effect is pending consideration before the Parliament.

Mr. Bose upon instructions submits that his client wishes to withdraw the present writ petition with liberty, however, to take out appropriate other proceedings on the self-same cause of action.

Reserving such liberty to the writ petitioner, WPA 13488 of 2021 is dismissed.

There shall be no other as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)