

25.01.2021

Item No. 1

Crt. No. 11

b.r.

MAT 766 of 2020

with

IA No. CAN 1 of 2020

Shibani Chandra (Kar)

-vs-

The State of West Bengal & Ors.

Mr. Sankar Prasad Dalapati

Mr. Pritam Choudhury

Mr. Subrata Sarkar

Mr. Sourav Mondal

..... For the appellant.

Mr. Swapan Kumar Datta

Mr. Tapas Kumar Dey

..... for the State-Respondents.

Ms. Chaitali Bhattacharya

Mr. Protim Chakraborty

..... For the respondent nos. 2 and 4.

Under challenge in this appeal is the order of the Hon'ble Single Bench dated 18th November, 2020 in WPA 7931 of 2020. By the said order, the Hon'ble Single Bench was pleased not to interfere in the writ petition and permitted the contesting parties, viz. the petitioner and the Municipal Authorities to take their respective stand in connection with and/or pursuant to the letter dated 22nd September, 2020 issued by the Respondents/Chandrokona Municipality to the writ petitioner.

Mr. Dalapati, learned Counsel, appearing for the appellant/writ petitioner draws the attention of this Court to a

letter dated 10th September, 2020 addressed by the petitioner to the Executive Officer of the Respondent-Municipality. Relying on a particular paragraph of the said letter dated 10th September, 2020, learned Counsel for the appellant submits that since the events which form part of the notice dated 22nd September, 2020 relate to the period when the petitioner was then working with the Respondent/Municipality, in the absence of production of records and/or supply thereof to the appellant by the Respondent/Municipality, it would be impossible for the appellant to reply.

The appellant also complains of the fact that the notice dated 22nd September, 2020 has the effect of casting a stigma on the appellant by alleging the role of the appellant in defalcation of the funds of the Respondent/Municipality. Therefore, the appellant seeks the remedy of quashing of the notice dated 22nd September, 2020 to remove both the stigma and the requirement of a reply *sans* the supply of records as demanded by the appellant by the communication dated 10th September, 2020(*supra*).

Mr. Bhattacharyya, learned Counsel appearing for the Respondents/Municipality, submits that in law neither the writ petition nor the appeal is maintainable. It is pointed out that both the writ petition and consequently this appeal is pre-mature since it is now trite that no legal action can normally lie against a show-cause notice.

Mr. Datta, learned Additional Government Pleader (*AGP*), appears for the State-Respondents.

Having heard the parties and considering the materials placed, this Court is of the considered view that the communication dated 22nd September, 2020 and the presumed reply of the appellant/the writ petitioner are issues which have their basis on facts. In a situation where the facts are still at the stage of being exchanged between the parties by way of affidavits, there is little scope of intervention by the Appellate Court with the order of the Hon'ble Single Bench.

Accordingly, this Court is of the view that the order impugned of the Hon'ble Single Bench permitting the process of exchange of facts *inter se* between the parties alone through issue of the show-cause notice and the presumed reply of the appellant/writ petitioner, requires not to be interdicted.

The appeal being **MAT 766 of 2020** and the connected application being **CAN 1 of 2020** are accordingly **dismissed**.

Since only the legal basis of an intervention at the show-cause stage is involved for consideration in this appeal, affidavits were neither sought for, nor invited. Accordingly, other allegations made in this appeal and connected application stand denied and disputed.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent xerox certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Hiranmay Bhattacharyya, J.)

(Subrata Talukdar, J.)