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01.12.2021.
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 10546 of 2020
(Via Video Conference)**

**Dayamaya Murmu
-versus
State of West Bengal & Ors.**

**Mr. Dilip Kumar De,
Mr. Arunava Pati.
...For the Petitioner.**

**Mr. Supriyo Chattopadhyay,
Ms. Iti Dutta.
...For the State.**

**Mr. Bhaskar Prasad Vaisya,
Mr. Suman Dey.
...For DPSC.**

The order dated 22nd June, 2018 passed by the Commissioner, School Education, West Bengal is impugned in the instant writ petition.

The Commissioner, School Education considered the matter in compliance of the direction passed by this Court on 19th January, 2018 in W.P. No. 20501(W) of 2017.

The petitioner prays for benefit under ROPA. It appears from the order passed by the Commissioner that the petitioner did not exercise his option in ROPA-1990, ROPA-1998 and ROPA-2009. The Commissioner was of the opinion that it was sheer negligence of the petitioner that he did not exercise option in three consecutive ROPAs.

The Commissioner was of the further opinion that he does not have the authority to allow the petitioner to exercise option in terms of ROPA-1990.

The submission of the petitioner is that the Commissioner failed to take into consideration the application filed by the petitioner exercising option at a delayed date. The petitioner prays that the application made by the petitioner at the delayed date be taken into consideration.

It is the further case of the petitioner that in the impugned order the Commissioner mentioned that he did not have the authority to allow the petitioner to exercise option. It has been submitted that as the Commissioner has come to the opinion that he does not have the authority, the matter may be referred to the Secretary, Education Department for taking a decision in the matter.

I have heard the submissions made on behalf of both the parties.

The Court in the earlier writ petition filed by the petitioner specifically directed the Commissioner of School Education to take a decision in accordance with law after giving an opportunity of hearing to the petitioner. Opportunity of hearing was duly given to the petitioner. The Commissioner considered the matter and was of the opinion that the petitioner was negligent in not exercising option.

Any option exercised beyond the prescribed date will not be an option exercised in accordance with ROPA. Option exercised beyond the prescribed date cannot be taken into consideration by the respondent

authorities granting benefit in accordance with ROPA in the absence of a specific Rule/Guideline for extension of time for filing the option.

In the present case, no such Rule/Guideline has been placed before the Court extending the time period for filing the option.

That being the case, option filed by the petitioner at a delayed point of time cannot be treated to be a valid option in the eye of law.

The Commissioner certainly does not have the power to relax/extend the time period for filing option to grant benefit in accordance with ROPA.

In view of the above, no relief can be granted to the petitioner in the instant case.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)