

27.01.2022
Item No.38.
Court No.6.
AB

(Via Video Conference)

**M.A.T. 31 of 2022
With
I A CAN 1 of 2022**

Biswajit Saha & Others

Vs

Union of India & Others

Mr. Kishore Datta, Sr. Adv,
Mr. Amit Pan,
Mr. Aryak Dutt,
Mr. Dipankar Das ...for the Appellants.

Mr. Ansar Mondal,
Ms. Tapati Samanta for the State.

Mr. Sankar Sarkar for the U.O.I.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv,
Mr. Piush Chaturvedi,
Mr. Uttam Kumar Mondal....for the Respdt. 3.

By consent of the parties, the appeal and the application are taken up together for hearing.

This is an appeal against a judgment and order dated January 5, 2022, whereby WPA 5538 of 2021 was disposed of.

The writ petition was listed before the learned Single Judge under the heading “Group-I” at the instance of the writ petitioners. The learned Judge had determination to hear “Group-I” matters. The grievance of the writ petitioners is in respect of actions

proposed to be taken by the Power Grid Corporation of India Limited, which, according to the writ petitioners, would render their land useless. The proposed action of the Power Grid Corporation of India Limited is evidently under the Indian Telegraph Act, 1885, the Electricity Act and the Rules framed thereunder.

In our considered view, this matter should have been classified as a “Group-IX” matter, and not “Group-I” matter. It is not in dispute that the learned Judge, who heard and disposed of the writ petition, did not have determination to hear “Group-IX” matters. It is fairly well settled that an order passed by a learned Judge in a matter, which the learned Judge did not have determination to hear, would be *non est* in the eye of law. This flows from the fact that the Chief Justice of High Court is the Master of the roster and has the exclusive power and prerogative to assign matters to particular Judges. It is from such assignment that a particular Judge derives jurisdiction to hear a particular matter.

In view of the fact, we are of the opinion that the writ petition comes under “Group-IX”. We are constrained to set aside the order under appeal only on the ground of lack of determination of the learned Judge to hear and dispose of the matter.

The writ petitioners may take appropriate steps to have the matter listed before the appropriate Bench.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondents.

The appeal being MAT 31 of 2022 along with IA CAN 1 of 2022 are, accordingly, disposed of.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)