

03 25.03.22

Ct. No. 04

Akd

M.A.T. 125 of 2022
CAN 1 of 2022

Sangita Mandal nee Parua
Vs.
State of West Bengal & Ors.

Mr. Sankar Prashad Dalapati,
Mr. Satyajit Mahata,
Sourav Mondal.

... for the petitioner.

Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey.

... for WBCSSC.

Mr. Avishek Prasad.

... for the State.

The writ petition was dismissed solely on the ground that the learned Advocate for the petitioner at the time of making submission suppressed the facts.

Admittedly the communication, which was annexed at page 45 of the writ petition, has a supporting pleading therein. There was no suppression of facts in the pleading. A distinction has to be drawn between the suppression of facts and suppression of material facts. In former case it may not tantamount to dismissal of the writ petition, but in later it has larger impact in exercising the discretion by the Court. Every fact may not constitute material fact but such fact, which germane over the cause of action pleaded therein, if suppressed, may invite refusal to exercise the discretion by the Court.

Simply because the Counsel could not place the document, which forms the integral part of the writ petition, cannot come within the purview of suppression of facts. The concept of suppression of facts is in relation to a pleading and not when the Counsel though have legal acumen has not properly assisted the Court, as the way of argument differs

from a man to man.

It is an ardent duty of the Court to look into the pleadings and decide the case made out therein. The importance of argument cannot be completely overlooked as he assisted the Court in finding out the real cause/issue germane between the parties. Solely on the ground that the Counsel for the petitioner could not place the said document, which was annexed to the writ petition, the writ petition, in our opinion, does not deserve dismissal.

The order impugned is set aside.

The matter is remitted to the Single Bench with a request to decide the same by affording an opportunity of hearing to the respective parties on merit.

The instant appeal and connected application are thus disposed of.

There will however be no order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)