

**FMA 656 of 2022
With
CAN 1 of 2022**

**Budge Budge Refineries Ltd. & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Kallol Basu
Mr. Koushik Chowdhury
Mr. Bratin Kumar Dey

... ... for the appellants

Mr. T. M. Siddiqui
Mr. Nilotpal Chatterjee

... ... for the State

Ms. Sutapa Sanyal
Mr. Debrup Bhattacharyya
Mr. Pradeep Kumar Tulsyan

... ... for the respondent nos.3 and 4

This appeal is at the instance of the writ petitioners challenging the order of the learned Single Judge dated 4th January, 2022 whereby WPA 1642 of 2020 has been dismissed on the ground of availability of remedy of appeal.

Record reflects that the appellants had filed the petition challenging the order dated 17.12.2019 which was passed under section 17(A) of the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972. Against such an order there is a remedy of appeal under section 17(D) of the Act. Therefore, learned Single Judge has reached to the conclusion that the writ petition is not to be entertained in view thereof.

Submission of learned counsel for the appellants is that, since the market fee is attracted on only agricultural produce and the appellants are not dealing with the agricultural produce, therefore the Act itself has no application, hence, writ petition ought to have been entertained.

Learned counsel for the respondents submits that this very issue can be examined by the appellant authority.

Against the order which was under challenge undisputedly the appeal lies. The appellants can very well raise the issue relating to applicability of the Provisions of the Act on the ground that the appellants are not dealing with the agricultural produce before the appellate authority.

Since an alternative efficacious statutory remedy of appeal is available, therefore we are of the opinion that the learned Single Judge has not committed any error in dismissing the appeal. Hence, no case for interference in this appeal is made out. We make it clear if any such ground is raised by the appellants in the appeal then the same will be duly considered by the appellate authority in accordance with law.

It is also pointed out that in the meanwhile the limitation for filing the appeal is expired. Hence, we direct that if the appeal is filed within a period of one week from today then the same will be considered and decided without raising any objection about the limitation.

The appeal and the connected application are accordingly disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)