

29 **24.03.22**

Ct. No. 04

Akd

WP.ST. 25 of 2022

Dr. Sabyasachi Roy

Vs.

State of West Bengal & Ors.

Mr. Pijush Kanti Roy,

Mr. Prantick Ghosh,

Mr. Siddhartha Sarkar.

... for the petitioner.

Mr. Tapan Kumar Mukherjee.

... for the State.

The genesis of the instant writ petition is the order dated 10th March, 2022 passed by the Single Bench of the West Bengal Administrative Tribunal in OA 722 of 2021; wherein a direction was passed upon the concerned Department to place the matter before the Chairman for appropriate assignment before the Division Bench.

The tribunal application taken out by the petitioner was initially listed before the Division Bench and the order was passed thereupon, which gives an impression that the matter was, in fact, taken up by the Division Bench, who was in seisin thereof. Subsequently an administrative order was passed by the Chairman of the Tribunal in exercise of power conferred under Section 5(6) of the Administrative Tribunal Act, 1985 to ease out the congestion of heap of matters pending before the Division Bench.

The Administrative order dated 11th February, 2022 passed by the Chairman is annexed to the instant writ petition at page 131. The sum and substance of the said administrative order raises no ambiguity to the fact that the object behind it to have more Benches to secure the timely disposal of the cases and to avoid the general perception in the mind of the citizenry that the justice delayed is justice

denied.

The contents of the said order basically emphasized the stage at which the matter can be decided by a Division Bench and the meaningful reading therefrom leaves no ambiguity that if the dispute pertains to the validity of the statutory provisions or the complexity in interpreting the Constitutional provisions, it would be heard by a Division Bench. However, in other matters if either of the parties intended to have the matter heard and disposed of by the Division Bench, such litigant must convey his intention either at the time of admission of the tribunal application or before the final hearing commences. The purpose behind the aforesaid conditions having put in the administrative order is to avoid forum shopping or to eradicate any attempt of choosing the Bench and the Judge manning the same. The impartiality, fairness and transparency in an adversarial system of adjudication is paramount and hallmark of dispensation of justice. Though the right to approach the forum is provided in the statute but certainly not to choose a particular Bench or a Judge.

From the record it appears that the matter was substantially heard by the Single Bench having listed in terms of the said administrative order and it is only when the turn of the State respondent comes the point was taken that the matter is required to be heard before the Division Bench. Probably an impression was created in the mind of the learned Advocate representing the State that the hearing must be construed to be a hearing of the parties or the respective Counsels and not the hearing of the matter itself. In our view, such confusion is unfounded for the reason that the final hearing connotes the hearing of the matter and not a

particular litigant or the Counsel representing it.

Since the hearing has already commenced and we are given an impression that it has been substantially done, it would not be proper at this stage to remit the matter to the Division Bench for de novo hearing, as it would tantamount to delay in disposal of the proceeding.

Though the impugned order appears to be innocuous yet having a negative impact, which cannot be accepted and, therefore, the same is set aside.

We direct the learned Single Bench of the West Bengal Administrative Tribunal before whom the instant matter is pending to list the matter within fifteen days from the date of the communication of this order and shall thereafter make endeavour to dispose of the same within three months therefrom after giving an opportunity of hearing to the parties or their respective Counsels and by providing proper reasons.

None of the observations made hereinabove incidentally or accidentally touching upon the merit of the claim made before the Tribunal shall not have any persuasive effect at the time of disposal of the tribunal application, which shall be decided independently on its merit.

The writ petition is thus disposed of.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

