N.22Sl

151/CL
17.06.22
Sl-01
Ct.32
(S.R.)

MAT No.332 of 2018
with
IA No: CAN 1 of 2018 (Old No. CAN 2091 of 2018)
and
CAN 2 of 2018 (Old No. CAN 2092 of 2018)
Shyam Sundar Mallik
v.
State of West Bengal & Ors.

Mrs. Pampa Dey (Dhabal)
Mr. Krishna Deo Das ... for the appellant.

Mr. T.M. Siddiqui ... for the respondents.

The present appeal has been preferred challenging an order dated 16th August, 2016 passed in W.P. No.19479 (W) of 2015.

As we have invited Mrs. Dey (Dhabal), learned advocate appearing for the appellant to advance her arguments on merits of the appeal, we condone the delay in preferring the present appeal and allow the application for condonation of delay being IA No: CAN 1 of 2018 (Old No. CAN 2091 of 2018).

Mrs. Dey (Dhabal) submits that the learned Single Judge did not consider the arguments as advanced on behalf of the writ petitioner while passing the impugned order dated 16th August, 2016. In the writ petition initially an order was passed on 19th August, 2015 towards exchange of affidavits. No such affidavit-in-opposition was filed by the State respondents and without even supplying a copy of the notification, as referred to by the learned Single Judge in the order impugned, to the writ petitioner, the writ petition was finally decided.

Drawing our attention to the memo dated 16th January, 2015 issued by the Director of State Lotteries, Government of West Bengal, she submits that the government had no authority to deduct 35% of the prize money towards administrative charges and that such deduction was not in consonance with the statutory provisions.

By an order dated 10th June, 2022 we directed Mr. Siddiqui, Additional Government Pleader to produce the notification on the basis of which the prize money was deducted. In compliance with the said order, Mr. Siddiqui has produced a notification dated 7th March, 2014. A copy of the same has also been handed over to Mrs. Dey (Dhabal). Let the said notification, as produced, be kept on record.

Mr. Siddiqui submits that there is no infirmity in the order impugned. The State authorities had the jurisdiction to deduct the administrative charges. In Clause 5 of the notification dated 7th March, 2014 it has been clearly stated that 35% from 1st, 2nd, and 3rd prize shall be deducted towards administrative charges for payment of Agents/Sellers incentive etc.

We have heard the learned advocates and considered the materials on records.

In the lottery ticket (Nababarsha Bumper) the terms and conditions were specified. Clause 4 of the said ticket runs as follows: -

"4. 35% from 1st prize, 2nd prize, 3rd prize & 4th prize shall be deducted towards Administrative Charges and for payment of Agents'/Sellers' incentive etc.. Income Tax shall be deducted as per provisions of the Income Tax Act."

Thus, the provision towards deduction of administrative charges to the tune of 35% was within the knowledge of the appellant while participating in the lottery. The appellant herein got the first prize and the details towards deduction were intimated to him *vide* memo dated 16th January, 2015 issued by the Director of State Lotteries, Government of West Bengal. The authorities had the jurisdiction to deduct administrative charges to the tune of 35%, as would be explicit from the notification dated 7th March, 2014.

We, thus, do not find any infirmity in the order impugned and as such, no interference is called for in the present appeal.

Accordingly, the appeal being MAT No.332 of 2018 and the connected application for stay being CAN 2 of 2018 (Old No. CAN 2092 of 2018) are dismissed.

There shall be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Raja Basu Chowdhury, J.) **(Tapabrata Chakraborty, J.)**