

11.04.2022
Item No.10
Court No.6.
S. De

**F.M.A. 746 of 2019
I.A. No. CAN 1 of 2019
(Old No. CAN 6502 of 2019)**

**Sri Deb Sadhan Sarkar.
Vs
The State of West Bengal & Ors.**

Mr. Tarapada Das,
Mr. Mahadeb Khan,
Ms. Janaki Khan,
...for the appellant.

Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Mr. Somnath Naskar,
...for State respondents.

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

This appeal is preferred by the writ petitioner against an order dated December 7, 2018 whereby his writ petition being W.P. 31084(W) of 2017 was dismissed with costs.

The learned Judge did not go into the merits of the writ petitioner's case. The writ petition was dismissed on the ground that the writ petitioner had made incorrect statements before the learned Judge as regards compliance of the learned Judge's order dated October 4, 2018.

We have heard learned counsel for the parties. We are of the view that no such grave mis-statement

was made before the learned Single Judge as would warrant of dismissal of the writ petition without the same being considered on merits.

Learned advocate appearing for the State says that the writ petitioner's prayer for switching from Contributory Provident Fund to General Provident Fund cannot be allowed. The appellant obviously says that there is nothing wrong with the prayer for conversion.

We are not going into the merits of the matter at all. We set aside the order under appeal and remand the matter back to the learned Single Judge having determination to hear the matter for deciding the writ petition on merits.

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

F.M.A. 746 of 2019 is, accordingly, disposed of along with the application being I.A. No. CAN/1/2019 (Old No. CAN/6502/2019).

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Krishna Rao, J.)

(Arijit Banerjee, J.)