

**20.06.
2022**

Ct. No. 04

Ab

WP.ST 53 of 2022

Dr. Nilanjan Dutta

Vs.

The State of West Bengal and others.

Ms. Jeenia Rudra.

... for the petitioner.

**Mr. Rajarshi Basu,
Mr. Hasanuz Zaman.**

... for the State.

Technically the instant writ petition is not maintainable at the behest of the petitioner as the impugned order was passed on the basis of the submission advanced by the petitioner before the tribunal.

However, the learned Advocate for the petitioner submits that despite the impugned order the authority has not taken any steps nor issued any letter calling upon the petitioner to appear for the purpose of taking a decision on the basis of letter of resignation dated 18th January 2019.

The learned Advocate for the State submits that the said letter was never tendered nor the original copy of the said letter is found on record. However, the photocopy of the same has been found in the record and, therefore, the authority felt that no action can be taken on the basis of the photocopy. It was further submitted that a further letter of resignation may be given to the competent authority so that the decision on the letter of resignation can be taken.

It is no doubt true that the substantial justice has an edge over the technical pleas. The moment the technical pleas are pitted against the substantial justice, the later shall prevail. After all, the letter of

resignation was tendered by the petitioner and the tribunal directed the authority i.e. the Joint Director of Health Services (Administration), Government of West Bengal to take a decision thereupon. There was no plea taken before the tribunal that the original copy of the letter of resignation was never tendered with the authority. The plea appears to have been taken for the first time, obviously on the instruction being received from the competent authority.

It is really unfortunate that the authority, who is in the helm of the affair and bound to comply the order passed by the tribunal, has taken such stand in order to avoid such compliance on a technical ground.

Since the copy of the said letter of resignation is with the said authority and the learned Advocate for the petitioner submits it is the photocopy of the said original letter, the said authority is directed to take a decision thereupon in terms of the order of tribunal.

Since the period enshrined in the impugned order has expired, we, therefore, extend the time by three weeks from date.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)

