

**23.09.
2022**

Ct. No. 04

Ab

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.**

WP.ST 92 of 2022

**Prasanta Bhattacharya
Vs.
State of West Bengal and others.**

**Mr. Anjan Bhattacharya.
... for the petitioner.**

**Mr. Tapan Kumar Mukherjee,
Ms. Tuli Sinha.
... for the State.**

The instant writ petition has been taken out seeking disposal of the tribunal application, which has been fixed on 17th November 2022.

It is sought to be contended before us that the issues involved before the Tribunal have already been decided and/or answered by the Division Bench of this Court in another matter, so it would be a mere futile exercise if the Tribunal decides the matter. It is further contended that the Tribunal is bound by the decision of the High Court and, therefore, cannot take contrary view therefrom.

It is an apparent example of jumping the forum. Even if the higher forum has decided an issue of law yet it does not denude the forum of first instance to decide the issue in tune therewith. What can not be achieved directly is sought to be achieved indirectly.

The hierarchy of the judicial system would not be permitted to be undermined and the Court of higher forum cannot take out the proceedings from the lower forum and decide the same. It may have a remotest impact on the aggrieved party, as he/she would be deprived of a forum. Except in an exceptional and extraordinary circumstances, which is of great public

importance, such power should not be exercised and, therefore, we thus think that what has been shown patent is sought to achieve the latent object.

Since the matter is fixed on 17th November 2022, we expect that the Tribunal would take up the said application on the same day and if there is no fetter on the part of the Tribunal to dispose of the said proceeding on the said date on the basis of the law as it stands, endeavour shall be shown to dispose of the same. On the contrary, if the Tribunal feels that it cannot be disposed of on the same date, efforts shall be shown to dispose of the same within three weeks therefrom in accordance with law.

With these observations, the writ petition is disposed of.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)