

**23.09.
2022**

Ct. No. 04

Ab

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

WP.ST 95 of 2022

Rajiv Ghosh

Vs.

State of West Bengal and others.

Mr. Biswapriya Samanta.

... for the petitioner.

Mr. Tapan Kumar Mukherjee,

Ms. Tuli Sinha.

... for the State.

The instant writ petition is directed against an order dated 13th July 2022 passed by the West Bengal Administrative Tribunal in MA 119 of 2021 filed in OA 885 of 2021 whereby and whereunder on the prayer of the learned Advocate for the petitioner the said application being MA 119 of 2021 was allowed to be withdrawn with liberty to file afresh for the selfsame relief.

Learned Advocate for the petitioner is very much vocal in his submission that, in fact, no prayer was made before the Tribunal seeking withdrawal of the said application with liberty to file afresh and, therefore, such recording is contrary to what happened on the said date.

We appreciate the agony and anguish shown by the petitioner in the instant writ petition, but we are unable to persuade ourselves to go into the nitty-gritty of such prayer in view of the ratio of the law laid down by the Supreme Court in case of **State of Maharashtra vs. Ramdas Srinivas Nayak and Anr.**, reported in **AIR 1982 Supreme Court 1249**. It has been held that the statement of the Judge cannot be contradicted at the Bar or by affidavit. The matters of judicial record are

unquestionable and not open to doubt. It is further held that the Judges have said in their judgment that something was done than the same has to be regarded as last word. However, the Apex Court was also not unmindful of the fact that if the litigants are rendered remediless in this regard, it may in some cases cause a greater hardship and/or injustice. The Apex Court opined that in such event, it would be proper for such litigants to approach the same Judge so promptly that the incident does not fade from its mind.

The higher forum should be slow and circumspect in interfering with the order solely on the ground of wrong recording of the event or the event having not occurred before the Tribunal.

We, thus, do not intend to interfere with the impugned order. However, it is open to the petitioner to approach the Tribunal in the light of the observations made by the Apex Court in case of **Ramdas Srinivas Nayak and Anr. (supra)**.

The writ petition is, thus, disposed of.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

