

41 **29.09.
2022**
Ct. No. 04

Ab

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

WP.ST 99 of 2022

Rakhi Mondal
Vs.
The State of West Bengal and others.

Mr. S. K. Halder,
Mr. D. Pattanayak.

... for the petitioner.

Mr. Tapan Kumar Mukherjee,
Mr. Rajat Dutta.

... for the State.

The affidavit of service filed in Court today is kept with the record.

The instant writ petition has been taken out assailing an order dated 20th July 2022 passed by the West Bengal Administrative Tribunal in OA 319 of 2022 by which the said tribunal application was disposed of without passing any order solely on the ground that the petitioner has an efficacious alternative remedy provided under the Right to Information Act, 2005.

It appears that the father of the petitioner also applied under the aforesaid Act seeking information pertaining to the queries relatable to the service of the petitioner. The said application was kept pending and, subsequently, the petitioner also applied under the aforesaid Act before the competent authority for the selfsame information. The said application was taken out on 3rd January 2022, but the same has not been disposed of as yet.

The Tribunal was approached for an order directing the authority to furnish the information as requisitioned in the said application, which is still pending before the competent authority. The tribunal application came to be disposed of as the remedy by way of an appeal is provided to the petitioner.

Ordinarily, we do not interfere with such order being conscious of the fact that unless the petitioner exhausts all statutory remedies, the approach should not be made. Equally, we cannot overlook that though the reliefs are couched in different fashion yet the intention of the petitioner, which is manifest, was to secure disposal of the said application pending before the State Information Commissioner, West Bengal Information Commission, Kolkata – 700087.

There was no difficulty on the part of the Tribunal to issue a direction upon the said authority to dispose of the said application. Justice transcends all the barriers of the procedural technicalities. The grievance, which could be perceived, was inaction on the part of the said authority in not disposing of the said application and, therefore, the Tribunal would not be projected the technicalities affront but should venture to render substantial justice.

In view of the above, the impugned order is set aside.

The respondent no. 8 is directed to dispose of the application dated 3rd January 2022 filed by the petitioner within fortnight from the date of communication of this order and shall communicate the decision immediately thereafter.

For abandon precaution it is hereby made clear that

we have no occasion to go into the merit of the contents of the said application filed by the petitioner before the said respondent and, therefore, none of the observations made herein above shall have any persuasive effect at the time of taking a decision thereupon.

With these observations, the writ petition is disposed of.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)