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**In the High Court at Calcutta
Circuit Bench at Jalpaiguri**

**MAT 77 of 2022
With
CAN 1 of 2022**

**The Secretary, Jalpesh Temple Committee
Versus
The State of West Bengal and Ors.**

Mr. Jagriti Mishra,
Ms. Ananya Bhattacharya,
Mr. Subham Gupta,
Mr. Debayan Goswami,
Mr. Reshab Kumar.
...for the appellant.

Ms. Madhushree Dutta.
...for the respondent no.4.

Mr. Subir Saha,
Mr. Bikramaditya Ghosh.
...for the State.

Affidavit-of-service filed in Court today be
kept on record.

This is an appeal against the orders passed
by the Hon'ble Single Judge dated 5th August, 2022,
10th August, 2022 and 12th August, 2022 in WPA
2106 of 2022 (Raj Kumar Das vs. State of West Bengal
and others).

The learned counsel for the appellant
submits that the writ petition was filed by an
individual with a prayer for large interest of public.
Learned counsel for the appellant submits that the

writ petition was not maintainable, even though the Hon'ble Single Judge has passed the impugned orders. The learned counsel for the appellant has referred the Notification dated 6th March, 2019 and submitted that if it is to be treated as Public Interest Litigation, the same is to be filed before the Hon'ble Chief Justice and not before the Hon'ble Single Judge. The learned counsel for the appellant further submits that the impugned orders passed by the Hon'ble Single Judge are liable to be set aside.

The learned counsel for the writ petitioner/respondent no.4 submits that the writ petitioner had entered into the temple and found that the condition of the temple is not good and due to which the writ petitioner had sustained injury and accordingly, he has made a representation to the Inspector-in-Charge of the concerned Police Station, but the police authorities had not taken any step, as such, he has filed the instant petition.

Learned counsel for the State submits that the Hon'ble Single Judge before passing the impugned order has called the Secretary of the Mandir Committee as well as the Officer of the State and after taking into consideration, the learned Single Judge has passed the impugned orders and the orders passed by the Hon'ble Single Judge have also been implemented and as such, the appeal preferred by the

appellant has become infructuous and no order can be passed in this appeal.

We have considered the rival submissions of the respective counsel and we have gone through the impugned orders passed by the learned Single Judge. It is found that in the order dated 5th August, 2022, the Hon'ble Single Judge has directed that "nobody except the Mandir Committee Members and the parties and their assistants will be allowed to "Garbho griho" on 07.08.2022 (Sunday) from 20:00 hrs. to 16:00 hrs., on 08.08.2022 (Monday) and on 14.08.2022 (Sunday) from 20:00 hrs. to 16:00 hrs. on 15.08.2022 (Monday)." It reveals from the said impugned order that the Hon'ble Single Judge has passed the said order of restriction only for two dates, i.e, 7th August, 2022 and 14th August, 2022. Shravan Mas has been completed in the month of August itself and now the orders passed by the Hon'ble Single Judge have no force.

We have also considered the documents on record and find that the Mandir Committee had filed one application on 10th August, 2022 challenging the maintainability of the writ application. Though the Hon'ble Single Judge has passed the order on 5th August, 2022 and during that time, the authorities have executed the order and as such, the learned Judge had no opportunity to take the application filed

by the petitioner in which the maintainability of the writ application was challenged.

This Court after considering the above facts is of the view that the orders passed by the learned Single Judge in the writ petition can only be treated as Public Interest Litigation and the said writ petition is not maintainable before the Hon'ble Single Judge and, thus, we are of the view that the impugned orders dated 5th August, 2022, 10th August 2022 and 12th August, 2022 should be set aside.

As the orders passed by the learned Single Judge are set aside, this Court is of the view that in future to avoid such circumstances, the Mandir Committee, if any occasion arises for making any arrangement of any function in the said Temple, should inform the State authorities and the State authorities and the Mandir Committee will sit together and frame guidelines for performing any function as desired by the Mandir Committee and the local people of the said area.

We further note that an individual cannot file a writ application by praying for the cause of general public and if the individual is aggrieved and intends to pray any order for the public, it is to be dealt in a Public Interest Litigation which is to be filed before the Hon'ble Chief Justice of Calcutta High Court.

It is made clear that in terms of the order passed by the learned Single Judge, a Contractor has made expenditure for a sum of Rs.2,61,634/-. The said expenditure shall be borne by the Mandir Committee and shall be paid to the said Contractor within a week from date, but this cannot be treated as a precedent in future.

In view of the above, MAT 77 of 2022 along with CAN 1 of 2022 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Krishna Rao, J.)

(Tirthankar Ghosh, J.)