

54 **27.02.
2023**
Ct. No. 04

Ab

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

WP.ST 8 of 2023

Partho Sarathi Kar and another
Vs.
The State of West Bengal and others.

Mr. Samim Ahmed,
Mr. Arka Maiti,
Ms. Ambiya Khatun.

... for the petitioners.

Mr. Tapan Kumar Mukherjee,
Ms. Debdooti Dutta.

... for the State respondents.

It appears from the impugned order that the same was passed on consent of the respective Counsels appearing for the contesting parties and, therefore, it is not open for the writ petitioners to challenge the said order on the score that the consent was wrongly recorded. We, however, noticed that several reliefs have been claimed in the instant writ petition de hors the original reliefs of the tribunal application.

Since the Tribunal acts as Court of first instance and has been vested with the power to declare any statute as ultra vires, we do not think that the writ petitioners can be permitted to jump the forum and seek the reliefs not claimed in the tribunal application.

Since the question is raised on recording the consent, we feel that it would not be proper for us to entertain the instant writ petition. Entertaining the writ petition on such score has a cascading effect, as the events recorded by the Tribunal shall be disbelieved without affording an opportunity to the Member of the Tribunal.

The Apex Court in case of **State of Maharashtra vs. Ramdas Srinivas Nayak and Anr.**, reported in **AIR 1982 Supreme Court 1249** has deprecated the maintainability and entertainability of the proceeding by the higher forum against an order passed on consent of the parties or on the basis of recording the events happened before it.

Since the question of jurisdiction is raised, it is open to take the recourse as permitted in the said report, but we cannot entertain the writ petition on the facts pleaded in the instant writ petition.

The writ petition is dismissed.

However, dismissal of the writ petition shall not preclude the writ petitioners to raise the grievance as raised in the instant writ petition before the appropriate forum.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

