

10.05.2023
Item No.02
Court No.6.
S. De

M.A.T. 672 of 2023
with
I.A. No. CAN/1/2023
Ummay Salma Khanam.
Vs
Mohima Khatun & Ors.

Md. Sarwar Jahan,
Mr. Omar Faruk Gazi,
Mr. Asif Mehdi,

...for the appellant.

Mr. Shahan Shah,

...for the respondent no.1/writ petitioner.

A judgment and order dated February 28, 2023, whereby the writ petition of the respondent no.1 herein being WPA 2441 of 2023, was disposed of, is under challenge in this appeal. The appellant was the private respondent in the writ petition.

The appellant says that the writ petitioner challenged the appellant's engagement as 'Sangha Co-ordinator' by way of an earlier writ petition. That writ petition was disposed of by directing the concerned Block Development Officer to consider the representation of the present writ petitioner. The Block Development Officer, after hearing all concerned parties passed an order rejecting the claim of the present writ petitioner. Challenging such order of the Block Development Officer, the present writ petition was filed. The learned Judge set aside the order of the

Block Development Officer and disposed of the writ petition with the following observations :-

“In the, prima facie, reading of the Court, a person who has been a member of a ‘Sangha’ or a self-help group which was running and/or was in operation for 5 years and also had three years experience of handling the records and other documents of the said ‘Sangha’ or group, would be eligible for being selected as a ‘Sangha Coordinator’.

Under such circumstances, the decision of the Block Development Officer is erroneous and set aside.

The petitioner is directed to approach the Additional District Mission Director (DMMU) and Project District Rural Development Cell, Naida for a decision in the matter in terms of the observations made hereinabove. Such decision shall be taken within a period of six weeks from date of receipt of the petitioner’s application/representation. The petitioner, a representative of the respondent no.7 and the respondent no.8 shall be heard. The decision shall be reasoned and communicated to all concerned.”

Being aggrieved, the private respondent in the writ petition has come up by way of this appeal.

We notice that the appellant was not represented before the learned Single Judge on the day

the writ petition was disposed of, in spite of receiving notice of the writ petition as would appear from the affidavit-of-service filed in Court. Learned advocate says that the appellant had engaged a learned lawyer who failed to turn up at the hearing.

Since the appellant did not appear before the learned Single Judge, for whatever reason, we are not inclined to interfere with the order under challenge. We are of the view that it will be unfair to interfere with, in any manner, an order passed by a learned Single Judge, at the instance of a party who chose to stay away from the hearing before the learned Judge.

The appeal being MAT 672 of 2023 is dismissed along with the connected application being I.A. No. CAN 1 of 2023.

This will, however, not prevent the appellant from approaching the learned Single Judge with an appropriate application in accordance with law. If the appellant is able to demonstrate sufficient cause before the learned Judge for her absence on the day the writ petition was disposed of, the learned Judge may pass such order as Her Ladyship may deem fit and proper.

This order shall not stand in the way of the concerned authority acting in terms of the order of the learned Single Judge.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)