

29.01.2024
rc/ct.no.10
Item No.07

WPA No. 11586 of 2022
With
CAN No. 1 of 2024
Sk. Nasim Alam
Versus
The State of West Bengal & Ors.

Mr. Pinaki Ranjan Chakraborty
Mr. Raju Mondal ...for the petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar ...for the State

Mr. Sanjay Saha
Mr. Subhasish Bhattacharya
...for the WBMDTC Ltd.

Inadvertent error has crept into the order dated
December 6, 2023.

In the second line of the third paragraph of the
order, "*11586 of 2023*" be read as "*11586 of 2022*".

The Department is directed to incorporate the
necessary correction accordingly.

Let this order be treated as a part of the order
dated December 6, 2023.

The remaining portion of the order shall remain
unaltered.

Re : CAN No. 1 of 2024

Heard learned counsels for the parties.

By an order passed on December 06, 2023, the writ
petition being WPA No. 11586 of 2022 was dismissed for
non-prosecution upon submission made by the learned

counsel for the petitioner that the petitioner did not intend to proceed with the matter any further.

In the present application learned counsel for the petitioner submits that such submission was made by the learned counsel without instructions from the petitioner. Also, since the fresh representation submitted by the petitioner in terms of the order of this Court dated April 07, 2022 was not annexed to the writ petition, learned counsel was not in a position to apprise the Court regarding the explanation of delay made by the petitioner in the representation. The petitioner seeks liberty to file a fresh writ petition on the same cause of action.

It appears that the present writ petition assails an order of rejection passed by the District Magistrate, Purba Burdwan on May 20, 2022. Since dismissal of the writ petition was not on merits, the petitioner ought to be granted liberty to file a fresh writ petition on the same cause of action, otherwise the petitioner shall be remediless.

In view of the above, the application being CAN No. 1 of 2024 is allowed.

The petitioner is at liberty to file a fresh writ petition on the same cause of action as in WPA No. 11586 of 2022.

There shall however be no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)