

D/L. 9.
August 16, 2023.
MNS.

WPA No. 13320 of 2023

Ashis Maity
Vs.
State Information Commission and others

Mr. Abhimanyu Bannerjee

... for the petitioner.

Mr. Raja Saha
Mrs. Arpita Saha,
Mr. Sanjoy Mukherjee

...for the respondent nos. 1 to 4.

Learned counsel for the petitioner submits that the petitioner was aggrieved with the inaction of the First Authority, before which information was sought by the petitioner under the Right to Information Act, 2005 (2005 Act). Hence, the petitioner preferred a challenge against that inaction by way of a representation dated February 7, 2023, annexed as Annexure P2 at page 15 of the writ petition.

Since the same was not registered as an appeal by the First Appellate Authority, it is alleged by the petitioner, the petitioner also had to approach the Second Appellate Authority on such count.

Despite repeated service, none appears for the First Appellate Authority, although the Second Appellate Authority is represented through counsel.

The envelope handed over by learned counsel for the petitioner, along with the affidavit-of-service, both of which are kept on record, indicates that the service was refused by the First Appellate Authority.

Hence, the writ petition is taken up in the absence of the First Appellate Authority.

It transpires that the petitioner's prayer is innocuous. The petitioner is primarily aggrieved with the First Appellate Authority not taking up the challenge against the First Authority at all.

In view of the nature of the order proposed to be passed herein, it is deemed that the challenge filed by the petitioner on the count of non-registration of the First Appeal, before the Second Appellate Authority, stands infructuous.

In so far as the challenge preferred before the First Appellate Authority is concerned, it is duty bound, at least, to register the appeal and come to a conclusion thereon in accordance with law.

Hence, WPA No. 13320 of 2023 is disposed of by directing respondent no. 5, the First Appellate Authority, to register as an appeal the challenge

preferred by the petitioner against the alleged inaction of the First Authority, such challenge being annexed as Annexure P2 at page 15 of the present writ petition. Thereafter, the respondent no. 5 shall decide the same in accordance with law and communicate the outcome thereof in writing to the petitioner.

Such entire exercise shall be concluded by the respondent no. 5 within six weeks from the date of communication of this order to the said respondent by the petitioner, by acting on a server copy of this order.

If the petitioner is aggrieved by such adjudication, the petitioner will be at liberty to challenge the same before the Second Appellate Authority, as the same would furnish a fresh cause of action.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)